

**SUFFOLK COUNTY LEGISLATURE
GENERAL MEETING
NINETEENTH DAY
NOVEMBER 19, 2002**

**MEETING HELD AT THE WILLIAM H. ROGERS LEGISLATURE BUILDING
IN THE ROSE Y. CARACAPPA LEGISLATIVE AUDITORIUM
VETERANS MEMORIAL HIGHWAY, SMITHTOWN, NEW YORK**

MINUTES TAKEN BY

**LUCIA BRAATEN, ALISON MAHONEY, DONNA CATALANO AND
ANA DUTRA GRANDE, COURT REPORTERS**

(* THE MEETING WAS CALLED TO ORDER AT 9:16 A.M.*)

**(THE FOLLOWING WAS TRANSCRIBED BY DONNA CATALANO - COURT
STENOGRAPHER)**

P.O. TONNA:

Roll call.

MR. BARTON:

Good morning, Mr. Chairman.

(ROLL WAS CALLED BY HENRY BARTON - CLERK OF THE LEGISLATURE)

LEG. CARACCIOLO:

Here.

LEG. GULDI:

Here.

LEG. TOWLE:

(Not present.)

LEG. CARACAPPA:

Here.

LEG. FISHER:

Here.

LEG. HALEY:

(Not present.)

LEG. FOLEY:

(Not present.)

LEG. LINDSAY:

Here.

LEG. FIELDS:

Here.

LEG. ALDEN:

(Not present.)

LEG. CARPENTER:

Here.

LEG. CRECCA:

I'm here.

LEG. NOWICK:

Here.

LEG. BISHOP:

Here.

LEG. BINDER:

(Not present.)

LEG. COOPER:

Here.

D.P.O. POSTAL:

Here.

P.O. TONNA:

Here.

MR. BARTON:

12 present.

P.O. TONNA:

Thanks very much. Okay. Let's all rise for the Salute to the Flag led by Legislator Carpenter.

SALUTATION

P.O. TONNA:

Thank you very much. And now I'd like to recognize Legislator Angie Carpenter for the purpose of our clergy introduction.

LEG. CARPENTER:

Thank you very much, Presiding Officer Tonna. It is indeed an honor for me to introduce our

clergy this morning. Reverend Father Jerry Toomey from St. Anne's Parish in Brentwood is an incredible person. And I know a lot of us say that about the clergy that is here, but he really exemplifies what I think a priest should be; really reaching out to the community right now, is involved in an outreach effort that helps the neediest of the needy, and is working on an exciting project that's going to be announced the beginning of December. So without further ado I would like to present Father Toomey.

FATHER TOOMEY:

Thank you, Legislator Carpenter. And the people of Brentwood are very honored to be represented by you and Legislator Alden, and we thank you thank for all that you and Legislator Alden have done for us, especially in the outreach efforts to which you adverted. And before our invocation this day which will come from the Hebrew Bible from the Book of Psalm, Psalm 67, I invite to you simply reflect for a moment, our esteemed Legislators, on a bit of wisdom from the faith tradition from which I come, a word of Cardinal John Henry Newman who once wrote that courage is grace under pressure.

And so I pray with you and for you this day for grace under pressure, true courage for the important deliberations that face you this day. Let us bow down our heads now and pray God's blessing in the words of Psalm 67 from the Hebrew scriptures. Oh, God, be gracious and bless us and let your face shed its light upon us. So will your ways be known upon earth and all nations learn your saving help. Let the peoples praise you, oh, God. Let all the peoples praise you. Let the nations be glad and exalt for you rule the world with justice, you rule the peoples with equity, you guide the nations on earth. The earth has yielded its fruit for God, our God, has blessed us. May God still bestow upon us his blessings until the ends of the earth revere him. Let the peoples praise you, oh, God. Let all the peoples praise you. Amen.

P.O. TONNA:

Okay. Everyone can sit down. Father Jerry, it's always great to see you. He's known in my family as Uncle Jerry, being the godfather of two of my children. That would be great. Okay. Let me -- 9:30? Yeah. Let me just as best I can -- and where's our Legal Counsel? Is he around? Okay. I'd like to try to give you an idea of what we're up against today. First of all, we're up against probably by the end of the day probably about 60 cards, which right now is about 35, but as the day progresses, I'm sure there'll be a lot more cards to be filled out. We have a meeting within a meeting today, and I'd ask Legal Counsel just to either explain the dynamics. We started at 9:15, but at 9:30, right, we have another meeting?

MR. SABATINO:

Yes. At 9:30 the regularly scheduled meeting for November 19th will have to be recessed until the conclusion of the special meeting on November 18th, which was recessed until today. So at 9:30 that motion has to be made and then at 9:30 we'll go into the recessed meeting from yesterday, conclude the business on that agenda and then come back to the regular meeting.

P.O. TONNA:

So that's where we are. Now, I've been here nine years, I still don't know what he's talking about. Anyway. And then we have some cards to go through. So let's start. It is my intense -- just one more thing and then I'll recognize you, Legislator Caracciolo. It is my intention that at six o'clock today that we would stay with the rule which says basically that we start on our agenda. We have a full agenda.

LEG. CARACAPPA:

You're kidding right?

P.O. TONNA:

No. I'd like to make sure that -- we have so much business to do today and there's a real, real concern by some Legislators about driving late at night, 2:00, 3:00 in the morning. So I would say that at six o'clock at night, if we're not done all our cards or whatever else, we're going to move to the agenda, get it done, then go back to the cards, okay? And I'd ask Legislators -- you know, the other thing is that the tax levy has to be set today. So we have a lot of different things of business to do, so I'd ask Legislators in looking at the cards and listening to the public and everything else, keep in mind we have a lot of voting to do today. Okay. Legislator Caracciolo, I'm going to recognize you and then I'll move with the cards.

LEG. CARACCIOLO:

Just a quick inquiry as to what's the schedule as far as taking up the veto overrides?

P.O. TONNA:

Excuse me?

LEG. CARACCIOLO:

The veto overrides, what time is that scheduled for?

P.O. TONNA:

We have not scheduled it yet, but I think probably, you know, we could do that at six o'clock, right?

MR. SABATINO:

In order to allow the Clerk's Office, you know, an opportunity to put together the tax levy information, I would recommend that you try to do it before the lunch break.

P.O. TONNA:

Oh, okay.

MR. SABATINO:

So this way during the lunch break in the afternoon while we're deliberating on the issues, they could reconcile the numbers and allow you to vote maybe at six o'clock to the tax levy, which is about --

LEG. CARACCILOLO:

It was my recollection a memo that --

P.O. TONNA:

That I sent?

LEG. CARACCILOLO:

Was sent sometime ago at the beginning of the budget process indicated that this day, this morning, in fact, we would have a meeting to discuss veto overrides.

P.O. TONNA:

Okay.

LEG. CARACCILOLO:

So I think consistent with that memo, and I don't have it with me, I left it in the office, but I'm almost certain that's what it said.

LEG. CRECCA:

Mr. Presiding Officer.

P.O. TONNA:

The way that it works, and I'm glad that you brought this to my attention, Michael, because my idea was to make sure that by six o'clock we vote to the tax levy -- warrant levy. But if we can address it this morning at around 11:00, I guess, all we have to do is, what, suspend the public portion for a period of time?

MR. SABATINO:

At 11:00 instead of extending the public portion, you would simply go to the veto override deliberations. However long it takes to do it, do it, then that would allow sufficient time for the rest of the process to work.

P.O. TONNA:

Okay. And just the format of the veto overrides is going -- I think the way, that nature of it is going to be where the omnibus is going to be one vote and the stand-alone resolutions that were there will be each and every one of them will be an individual vote. Okay. Let's start with. Jean Heath. Jean.

MS. HEATH:

I have copies of my report.

P.O. TONNA:

That will be passed out. Thank you.

MS. HEATH:

Good morning, Presiding Officer Tonna, Deputy Presiding Officer Postal, distinguished members of the Legislature, fellow citizens and guests. My name is Jean Heath. I am the Chair of the Suffolk County Women's Advisory Commission. I am here this morning on behalf of the commission to present our annual report to the Legislature updating you on the issues being pursued and addressed by the Suffolk County Women's Commission. I would like to introduce the members of the Suffolk County Women's Advisory Commission that are here today, Judith Wishnia, our first vice chair, appointee of Legislator Fisher, and Chair of our Homeless Committee, Barbara Schwarz, appointee of Legislator Bishop, and Alice Lambert, who is an

appointee of the Human Rights Commission, and I saw Chris Riemann here earlier, she is an appointee of the Presiding Officer.

I also wish to thank those members who have served as part of the Commission this past year; Pamela Gershowitz our former chair who's here, our former first vice-chair Yvonne Pena, Karen Leavandosky, Delphine Kucera, Terry Sherwood, Jaqueline Lofaro, Eugenia Jackoloski, Marcia Smoller, Judith McEvoy, Joan Gilroy and Marcy Meehan. We thank them for their work on behalf of the commission and their valuable contributions. The Suffolk County Women's Advisory Commission was formed as a result of Resolution 173-2000. And our purpose is to ascertain the needs of the women of this County and advice the County Executive and Legislature of those needs when possible, suggest viable solutions or avenues that may be pursued to find an end to those means. The issues we've addressed traditionally termed women's issues go far beyond. An issue affecting a woman today can also impact her children, spouse, significant other and extended family.

In the short time we have worked together, we have found we are so much more than defined by a resolution, and we are thankful for the opportunity to serve. We're a growing entity still learning and finding our way to assist those in need. We turn to the County Executive and Legislature for their wisdom and experience in resolving the growing needs of our community. We are proud to be a part of that. This is the millennium and unlike our ancestors, we receive news and information as it occurs, not days or weeks later. As much we progress, we continue to experience some of the same problems as in the 20th Century, problems that may have been eradicated at some time, but have come back and wreaking havoc in areas such as economy, agriculture and health. Those problems affect us all. Health concerns such as heart disease, osteoporosis and AIDS, family and legal issues of homelessness, domestic violence, children and single parents without support income. The vicious circles continue to whirl, we're chasing a tornado and trying get out early warning signals.

D.P.O. POSTAL:

Jean. Jean.

MS. HEATH:

Yes.

D.P.O. POSTAL:

I'm sorry.

LEG. BISHOP:

I have a question.

D.P.O. POSTAL:

But there are some questions. Your time is up. I think the first one was Legislator Lindsay, and secondly, Legislator Bishop.

LEG. LINDSAY:

Yes. Jean, what else did your report say?

MS. HEATH:

Okay. I'm sorry, I thought I had five minutes.

LEG. BISHOP:

Go ahead.

MS. HEATH:

The Health Committee has had forms on heart disease. The Legal Committee held two legal forums, one here in Hauppauge, one in Riverhead that gave out an awful lot of information. They were very successful forums. And our committee on Homelessness has worked -- has made -- I'm sorry. They have testified before the Task Force on Homelessness, and they've also made quite a few recommendations as to how to assess the homeless situation and those in need in that situation. I apologize. I thought I had five minutes. I would have, you know, gotten to that a lot quicker.

I just want you to all understand that this is not a hobby for us in the commission. We work very hard. It is a passion of ours. And every one of us in this room have had someone in a situation, a sister or daughter who was homeless, a mother who had a heart attack, someone who suffered from osteoporosis, friends who might have gone through a divorce. These are all issues that face everyone in this County. These are issues we're trying to address and find viable solutions to. And we look forward to working with you to do that. And I thank you for your time.

LEG. FOLEY:

Yes.

MS. HEATH:

I hope you'll all please read the report. A lot of work and effort has gone through doing this report and addressing these issues that we've worked on over the past year. Thank you.

LEG. FOLEY:

Madam Chair.

LEG. BISHOP:

I think I had a question.

D.P.O. POSTAL:

I can put you on the list. Legislator Bishop, followed by Legislator Fisher, followed by Legislator Foley.

LEG. BISHOP:

Jean, thank you for coming, and I want to thank my appointee for her dedicated service as well as all the others.

LEG. FISHER:

Is your microphone on, Dave? I can't hear you.

LEG. BISHOP:

Excuse me. What specific recommendations do you have regarding homelessness?

MS. HEATH:

Judith, you want to come and address that?

MS. WISHNIA:

Yes, I'll address that. Judith Wishnia is our Chair of the Homeless Committee.

MS. WISHNIA:

Well, first of all, with the increase in homelessness we would like to see Social Services reevaluate the number of workers needed in each section and perhaps shift some of the people to the homeless question and to also train them better on how to address homeless issues particularly in giving advice on what's available in help. The second issue we thought was if the County could see itself, we now place people in very, very expensive and inadequate motels. Some of us visited. I went with Lynne Nowick Vivian Fisher to some of these motels. If the County could see its way to purchasing or somehow getting some of the buildings that are not being used, such as Kings Park, Central Islip, the Smithtown Hospital on 111 and converting it into small apartments for homelessness, an expenditure at the beginning would save millions of dollars in the long run. We have other -- I can send you a report, but that's just some of the things we have been thinking about.

LEG. BISHOP:

I would like the report. I also want to advise you of a meeting that's going to be held on Monday the 25th at two o'clock in the Gordon Building in Ronkonkoma. I'll get you more details through my office. But last year the Legislature passed a resolution which I sponsored which forms a Task Force of the Police Department, Social Services, because one of the concerns I have is that in my district, I have a growing homeless population. Often I -- I see them -- individuals walking with shopping carts up and down Sunrise Highway and so on. When I've asked the Police or Social Services how they handle the situation, I haven't been happy with the response. I don't feel that the Police do anything other than treat it as a potential criminal matter, and that that's kind of the mistakes that --

D.P.O. POSTAL:

And there is a question here.

LEG. BISHOP:

Yes. Kind of the mistakes that New York City made in the '80s. So what I'm asking is will you attend that meeting and serve as my representative in future meetings on that committee?

MS. WISHNIA:

Unfortunately, I personally cannot attend that meeting, but I will have somebody in my committee go, okay?

LEG. BISHOP:

Okay.

D.P.O. POSTAL:

Legislator Fisher.

LEG. FISHER:

Actually, Legislator Bishop did ask one of my questions. But I did want to commend the women who are on this committee because -- for the work that you do. I have witnessed the dedication of all of the women that serve on the Women's Advisory Committee. Judith, when we went to the motels, one of the issues that we raised was that we needed to give the homeless people, the clients, more information. Now, you and I talked about perhaps preparing a cheat sheet for -- that everyone in Social Services should have a sheet. Have you thought more -- because I want to make this a question, have you given further thought to what items should be on that sheet, vis-a-vis the information?

MS. WISHNIA:

Yes. I spoke to Chris Reimann's office, and apparently they are working with Social Services to have a sheet, which everybody will get on where to go for WIC, FAN. And so unfortunately, you can't get WIC and FAN at the same time. But one of the problems is it has telephone numbers, and most of these people do not have access to telephones.

LEG. FISHER:

Don't have access.

MS. WISHNIA:

But we will continue -- I'll be working -- we'll be working with Chris Reimann and her -- and the Task Force, we hope. By the way, we would love to get a report of the Task Force when that comes out, so -- but anyway, yes, we are working on that. It's very important that people at least get the information about what is available for homeless people.

LEG. FISHER:

Okay. And if you can -- Judith, before you leave I think Lynne and I would like to speak to you about a project we have in mind also.

MS. WISHNIA:

Great.

LEG. FISHER:

Thank you.

MS. WISHNIA:

Thank you.

D.P.O. POSTAL:

Legislator Foley.

LEG. FOLEY:

My questions were asked and answered, but I'd also like to particularly thank Ms. Heath for the fine work she's done and the whole Task Force has done on these issues. And we look forward particularly in the Health Committee, perhaps we can have members of your own Health Committee attend a follow -- one of our two Legislative Health Committees in December to give a presentation on that particular part of your Task Force recommendations.

MS. HEATH:

Yes. I would really enjoy that, thank you very much. I would appreciate that.

D.P.O. POSTAL:

Legislator Nowick.

LEG. NOWICK:

Yeah. This is actually more for Judith. A thought just occurred to me. Did you ever -- when we talked about the telephones, and I know these homeless people didn't have the money to go on the pay phone, did you ever give any thought to going to maybe a Light Path or one of the organizations that give out the little phone cards? Maybe that's a way to get them an 800 number, a limited amount of phone calls as a donation maybe. And they can make -- because remember we had talked about the trouble with the phone calls.

MS. WISHNIA:

That would be a very, very good idea. Thank you.

LEG. NOWICK:

Just a thought.

MS. WISHNIA:

That's why we have smart Legislators.

LEG. NOWICK:

Thank you very much.

D.P.O. POSTAL:

Our next speaker --

MR. SABATINO:

There has to be a motion at this point to recess the regular meeting until the conclusion of the special meeting.

D.P.O. POSTAL:

Motion by Legislator Fields, seconded by Legislator Towle. All in favor? Opposed?

(THE MEETING OF NOVEMBER 19th WAS RECESSED AT 9:35 A.M.)

(THE MEETING OF NOVEMBER 19th RESUMED AT 9:42 A.M.)

P.O. TONNA:

All right. Now we go to the next meeting. We're back. I want you to know this was almost as quick as our 30 second meeting we had. Well, anyway. All right. No sense of humor today. Now, we're in the November 19th meeting, and we go to Kevin -- I can't -- I guess it's Evgil, I don't know if that's a V or an R.

MR. ERGIL:

I apologize. It's an R, Ergil.

P.O. TONNA:

Ergil. Okay. Thank you.

MR. ERGIL:

Thank you all very much. I can't actually apologize, but I can certainly express regret that with all the issues in front of this body, you're hearing again about that poor herb ephedra and its alkaloid constituents, but I do want to just reiterate. My name is Kevin Ergil, I live in Huntington. I'm an associate professor at Touro College where I serve as the Director of the Graduate Program in Oriental Medicine, and I've been involved in the study and practice of traditional Asian medical systems for over 20 years as a medical anthropologist and as a clinician. And I think over the last several months, it's been asserted that the FDA is unable to regulate dietary supplements. This is simply not the case. FDA has all the resources provided under the Food, Drug and Cosmetics Act, that is U.S. Code Title 21, and the regulations under Title 21 of the Code of Federal regulations.

FDA can and has acted against products that present a significant or unreasonable risk, poisonous, deleterious substances, and, in fact has a distinctive history of enforcement actions against dietary supplements including those containing ephedra or ephedrine. Consequently it seems disingenuous at best to assert that these products are unregulated by the FDA. I'm providing for your record some articles and discussions of this topic. One of these is a discussion of herb ephedra, which is an astonishingly well researched and well understood herb.

The basic chemistry was done in 1875 and it's just gotten better and better since. So I've provided you with a WHO, World Health Organization, monograph on this subject. Number of pieces of evidence of FDA's ability and action against harmful and illegal ephedrine containing supplements, and my point being here that further action by this body in this regard is probably not necessary. And if it is, I believe that the Resolution 2153, provided by the Honorable Cameron Alden represents a better solution to this matter, simply prohibiting the sale of ephedrine products to minors.

And finally, I furnished you with a very nice scholarly discussion of the FDA's ability to regulate these products under existing law from an article published in the Journal of Food and Drug Law. Thank you all very, very much for your consideration. And I would urge you please to reject Jon Cooper's proposed legislation and to adopt Legislator Alden's proposed legislation. Thank you

P.O. TONNA:

Thank you very much.

LEG. GULDI:

Question.

P.O. TONNA:

Robert.

LEG. GULDI:

Question. Question of the speaker.

P.O. TONNA:

Yes.

LEG. GULDI:

Yes. Sir, over here.

MR. ERGIL:

Splendid.

LEG. GULDI:

We heard a lost of the discussion about the risk and dangers and abuse and negative results of ephedra. Are you in a position to assert an outline and discuss the positive therapeutic effects and appropriate uses for the -- for the herbal supplement?

MR. ERGIL:

Let me explain briefly. The short answer is yes. The longer answer is I come from a very specific background in the use of this product. I'm a practitioner of Chinese herbal medicine where ephedra has a wide vary of applications, but typically and most frequently is used in upper respiratory tract infections with certain presentations, again, this is a matter of clinical differentiation, and in treating certain allergic conditions. I have become more aware, quite frankly, of the clinical data on the use of ephedra and ephedra caffeine 5 products in weight loss, and there does seem to be significant data in support of that application.

And I would have to assert based on what is really a preliminary review, and I tend to take this seriously since I wind up working with FDC and other agencies around this, but on preliminary

review, it is safe to say that, for instance, in a 1999 review article of so-called an associated deaths with ephedrine, which as all of you can understand can include an individual ingesting ephedra and then being hit by a car in a completely unrelated occurrence, a comprehensive review of some 140 deaths was in the end was unable to assert more than the possibility that some forty-five of those might actually have a relationship, and I stress might and possibility, other sources suggest that there is, in fact, absolutely no evidence for such a relationship being asserted.

LEG. GULDI:

I'm aware of the downside research --

MR. ERGIL:

So you want upside?

LEG. GULDI:

-- and its strengths and weaknesses. What I want to focus on for a minute is, you know, there are many -- people have had allergic reactions from penicillin, we have deaths from penicillin use, we have deaths from the interaction from ibuprofen and acetaminophen probably more than 140 year, as I understand, but with those -- those medications have vast positive therapeutic use. What I haven't heard much discussion of here is what's the positive therapeutic use for ephedra? What is it used for? And what does it do for people?

MR. ERGIL:

Well, again, given that the vast majority of use is associated with weight loss, and I'm not really qualified to speak of that, I think you have other speakers who are --

LEG. GULDI:

I understand that, but with within your decor of your discipline, Chinese herbal medicine, what are the positive uses?

MR. ERGIL:

The way we apply ephedrine is as an ingredient in a combination -- in combination with other herbs. So we don't typically use it as a single agent. For those of you who are interested, I've submitted a brief two page discussion of the typical application of Chinese herbal medicine. So when we think of its clinical application, we don't generally think of it as a single substance.

Obviously, and this is probably old news to all of you, the isolated constituents of ephedra, specifically ephedrine and pseudo ephedrine are so useful in causing bronchial dilation, that is opening the bronchials and vaso constriction, that is reduction of vessel size in the nasal mucosa that it forms a significant ingredient in any number of over the counter sale without prescription products. Our herbal use contains proportionately smaller available amounts of these constituents, and we use them in the same ways. But because we use them in combination with other herbs varied according to traditional practice and to the presentation of the patient, I can simply say that we routinely use these in the management of certain, but not all allergic conditions with respiratory issues, in the management of certain, but not all upper respiratory track infections, and we typically see positive clinical effects. Again, these are short term clinical applications for the most part. I hope that's helpful.

LEG. GULDI:

Yeah, that is helpful, but one point of clarification, is it or is it not generally within the scope of Chinese herbal medicine common to practice -- to use many, many ingredients, herbs and in combination in most of the therapies that Chinese medicine employs?

MR. ERGIL:

That is very typical, yes.

LEG. GULDI:

Thank you.

MR. ERGIL:

Thank you very much.

D.P.O. POSTAL:

I have a question. You said that you would support the resolution that bans the same of ephedra to minors. Why would you support a ban the sale of ephedra to minors and not to adults?

MR. ERGIL:

Well, simply for this reason. If you consider, and I think I said this in a letter to your office and other offices, if you consider the fact that prior to a certain age it may be difficult to make responsible decisions about health care, for instance, when I see individuals under 18 in my

practice, I generally request parental consent to treat, there is no particular -- let me phrase it this way. The FDA's enforcement power is substantial, and we can say this about other agencies as well; DEA, FBI, what have you and yet events occur that are obviously illegal or inappropriate.

So my point being that this measure would actually preclude the possibility of sale of inappropriate products to a population that may be inclined to seek them out. Then these are very likely illegal products, but, again, merchants aren't always aware of what an illegal product is in some cases. Some cases they are. This is a simple expedient to prevent any potential risk. I think frankly it's overkill, but it's a good remedy given the alternatives. The alternatives seem to be to unilaterally restrict access to -- of this substance from everyone.

D.P.O. POSTAL:

So it's -- your position is based on the assumption that minors have poorer judgment than adults?

MR. ERGIL:

For the same reason that we prohibit minors from purchasing alcohol or tobacco or other substances that we believe are appropriate to distribute generally, but that may be misused by minors or may be injurious to them without appropriate supervision. None of us would argue, I think, that's it's inappropriate for a minor child to have a glass of wine, but all of us might reject the notion that a minor child would walk into a bar and down several of them.

D.P.O. POSTAL:

In the Town of Huntington I believe there is a ban on the sale of ephedra to minors.

MR. ERGIL:

That is my understanding. That was recently passed. I think we're all very comfortable with that.

D.P.O. POSTAL:

Well, my question is with regard to enforceability. If a minor purchased ephedra by mail order or purchased it over the internet, how would you enforce a ban on the sale to minors?

MR. ERGIL:

I'm not sure that I could propose a mechanism for such enforcement. I mean, you would have the same problem with any -- any such ban, whether to minors or adults. These are problems that are really beyond my expertise. Again, I think what you're -- what you are doing -- I mean, think of all the things that minors can have access to on the internet, and this is a problem we all struggle with.

D.P.O. POSTAL:

Well, don't you feel it would be more enforceable if it were banned -- if the sale were banned to everyone in Suffolk County?

MR. ERGIL:

Oh, absolutely not. I think you'd multiply your enforcement issues. What you'd have then would be a larger population, a population that might feel illegitimately infringed on that would, if need be, seek out these resources through the internet. I mean, frankly this is one of the problems with this legislation. It actually asserts an authority that is really managed by a federal agency and managed quite well, frankly.

D.P.O. POSTAL:

Well, for example don't you feel that -- I buy multiple vitamins from a mail order house. Now, if multiple vitamins were illegal for sale in Suffolk County, then that mail order house would not be able to sell a multiple vitamins to anyone in Suffolk County, and there would be no issue of the age of a purchase searches. Now, I understand the mail order house might choose to flout the law, but there would be no way for a purchaser from New York to flout the law, unless they had an address in New Jersey they were having it mailed to. Don't you think that it would allow for fewer ways to evade the sale -- the illegality of the sale to minors?

MR. ERGIL:

Well, if your asking me, and perhaps you could clarify, are you asking me that -- and if I may use an analogy -- that it would be more effective way of preventing the sale of beer to minors would be to ban the sale of beer to everyone, I think that's what you're asking me.

D.P.O. POSTAL:

Well, yes, except that beer has been shown to be dangerous when used to excess, when used in a situation where somebody needs good coordination and good judgment. And we have at least

some evidence to indicate that ephedra is dangerous. If it's not dangerous to everyone, it's dangerous to some people. And it's --

MR. ERGIL:

Well, I think we can say -- we have evidence, for instance, that acetaminophen the primary ingredient in Tylenol kills 100 people a year, hospitalizes another 2000, and these are not associated deaths, these are clinically documented linked deaths with solid clinical data. Consequently, following your logic, I believe we would ban the sale of acetaminophen products in Suffolk as well. Because in this instance again, the FDA has been shown to be unable to protect the public by allowing the sale of this dangerous product. I can't say that I agree with your reasoning here. I think that what Legislator Alden has proposed is something that protects or serves a concern with public safety while protecting freedom of individual choice. And quite frankly, it's an effective compromise. I think the arguments that you are presenting with regard to enforcement could be extended to the point of making them almost ludicrous, but perhaps that's not what you're saying.

D.P.O. POSTAL:

Well, I would love to engage in a discussion with you, but this time is only for questions, so thank you.

MR. ERGIL:

Thank you so much.

P.O. TONNA:

Hold it one second. There's a -- Legislator Cooper has a question. Was there someone who came to me that had a question? Okay. Great. Legislator Cooper, questions, right?

LEG. COOPER:

Good morning, Kevin.

MR. ERGIL:

Good morning.

LEG. COOPER:

You had mentioned that the FDA had full authority to regulate ephedra dietary supplements as it is. On what do you base that claim?

MR. ERGIL:

Well, they -- let me let me defer. And I'm going to submit this to the secretary here, so you can all have copies of it. But specifically I'm referencing an article by McNamara, and you'll have a copy of this, titled, "FDA has substantial and sufficient authority to regulate dietary supplements", published in the Food and Drug Law Journal. And then my rather uninformed, but certainly reasonable reading on that basis of the U.S. Code and the Code of Federal regulations.

LEG. COOPER:

Would it surprise to you to learn that I spoke with one of the top people at FDA about a week or so ago and reviewed the whole litany of assumptions that I've been working under, principal of them being that the FDA's hands are largely tied when it comes to ephedra dietary supplements, because of DSHEA, because of the Dietary Supplement Health and Education Act? And every point that I raised, he said he had no qualms about. He supported every contingent that I had made and he reiterated that the FDA would like to be able to take action against supplements, but they're prohibited from doing so.

MR. ERGIL:

First of all, could we begin with the name of the top person you spoke to?

LEG. COOPER:

I can get that for you, yes.

MR. ERGIL:

I'm very uncomfortable -- and in my field, given my past profession as the Director of Research, I'm very uncomfortable with unreferenced assertions.

LEG. COOPER:

Let's assume for a second that I actually did speak with someone at FDA.

MR. ERGIL:

I'm sure if you're asserting, that it's true.

LEG. COOPER:

Bear with me. Thank you.

MR. ERGIL:

If that were asserted, I would have to say that it is likely to be an interested statement. As some of you are aware, the Legislative history of DSHEA involved substantive legal action to get FDA to actually abide by the Legislative intent of DSHEA. And when you assert, and if your source, in fact, said this, I'm sure he is confused and not intending to mislead you, given the history of enforcement actions, which are documented in the packet that I'm providing you, of FDA against ephedrine products, illegal products, and supplements containing ephedrine, I can only assert that the gentleman you spoke to may have -- may have temporarily forgotten the enforcement history of the FDA.

LEG. COOPER:

But if that were not the case -- if I had a long conversation with him and I believe that he knew exactly what he was speaking about, if that were not the case, do you have any other explanation for his position?

MR. ERGIL:

Well, I'll allow someone else --

LEG. COOPER:

I mean, it could be possible that he's -- this gentleman at the FDA knows what he's talking about.

MR. ERGIL:

Well, that's a possibility, but I'm -- but I'm more inclined to suggest -- and again, without knowing who you spoke to or what points you specifically raised or how they were answered, I'm, of course, really in the dark. But I think I can quote an interesting statement. And this is a three judge opinion from the U.S. Court of Appeals, 7th Circuit, and this is in reference to FDA's making an end run around DSHEA. FDA has not liked DSHEA for years. FDA knows how to enforce DSHEA, and as I say, has acted to do so. The U.S. Code provides it with substantial enforcement power, and again, we have evidence of that. So I can't -- without further information, Legislator Cooper, I can't really speak to that except to say either, you know, I don't know the questions you asked, but perhaps the gentleman was confused.

LEG. COOPER:

For those in the audience that are not familiar with what DSHEA --

P.O. TONNA:

No. No. No. Okay. Thank you very much.

LEG. COOPER:

Excuse me.

P.O. TONNA:

You have one more question.

LEG. COOPER:

You had also made the claim that you thought that it would be easier to enforce a ban against minors than a total ban. Are you aware that Nassau County banned the sale of ephedrine dietary supplements to minors, I think it was about ten, 12 years ago, and if you go into just be any drug store and health food store in Nassau County, you can easily find these products and kids can purchase them?

MR. ERGIL:

Let me -- let me answer that question. And let me say this first, if ease of enforcement constitutes a basis for Legislative action, then this is really not my understanding of the society that we wish to live in. In other words, ease of enforcement could be the basis of the infringement of many rights that we enjoy. I'm not sure that ease of enforcement represents the basis for any Legislative decision.

LEG. COOPER:

I was just responding to your claims it would easier, you were the one who made the statement.

MR. ERGIL:

No, I actually didn't say that. I said it would address public safety concerns, and that it would be appropriate given concerns about minor decision making in the context of certain products in the same way that we ban the sale of box cutters, spray paint, beer, tobacco and other things that can cause jury when used in an inappropriate way by someone who lacks judgment.

However, I don't believe that we would be happier in a society that banned the sale of all spray paint or all box cutters or all beer or any of these other things. And I do think frankly, it's an interesting assertion, especially from an elected representative.

LEG. COOPER:

But just to make things clear then, you do agree that it would be easier to keep the products out of the hands of minor if there was a total ban?

MR. ERGIL:

No. I absolutely do not agree.

LEG. COOPER:

So then you disagree? So you believe it would be easier to ban the sale to minors if there was only a ban on sale to minors?

MR. ERGIL:

I think that it would be appropriate to ban the sale to minors. I don't make any assertions about ease of enforcement. I think we all know that law enforcement processes that ban substances are complex at best of times. And I do not think that expedience in enforcement is the basis for any Legislative action of this sort. But you're, of course, welcome to think so.

LEG. COOPER:

And also, do you agree with what I believe is the wide body of medical evidence that certain individuals, particularly if they have preexisting heart conditions, if they took this product, even if it was a recommended dose or less, could suffer adverse side effects; heart attacks, stroke, heart palpitations, seizure?

MR. ERGIL:

I think the general term used is not could, but may. And I believe that the review of the preponderance of those incidents has shown preexisting pathological conditions that dispose the individual, again, reminding us that Tylenol in a year has killed more people in a documented way than ephedrine has even supposed to have killed in its brief history as a supplement. I think --

LEG. COOPER:

And how many people were supposed to have been killed by ephedra?

MR. ERGIL:

As I said, the review that I conducted shows the possibility, and other reviews show less, the possibility of forty-five over, oh, I think about a 15 or more year period. But I wouldn't assert that here, because I haven't really prepared the data.

LEG. COOPER:

Would it surprise you to learn that -- as you know, because of DSHEA, dietary supplement manufactures are not required to report consumer complaints, adverse incident reports to the FDA? A pharmaceutical if one of their consumers, one of their customers, has suffered a heart attack, a stroke, seizure, psychosis, death, they have to report that to FDA. Because of DSHEA, which was past after intense lobbying by the \$17 billion dietary supplement industry, the dietary supplement makers were exempted from that requirement. So it obviously is extremely difficult, and my contact with FDA confirmed this, it's extremely difficult, basically impossible, for them to get an accurate idea of just how many people have suffered adverse effects because of this very law that passed under industry pressure.

MR. ERGIL:

I think there was a question buried there. I would say, no, I'm not surprised. However, it's important to understand that FDA is quite free to act even without any adverse of that reporting and, in fact, has done so. And FDA's entire system of adverse event reporting, including, in fact, I believe pharmaceutical reporting is under review. And finally, if it's a \$17 billion dietary supplement industry, I can't imagine the leverage that is exerted by the even more vastly funded pharmaceutical industry. I think that the only real consideration before this body is whether the FDA is doing a good job or not, and it has the tools or not. It does have the tools. If it doesn't feel it has the tools, it can advance legislation on its own behalf. And whether our constituents, our community, really would like to have access to these products. And so far, as I've heard at these sessions, there is just an enormous wish to have access to these products.

LEG. COOPER:

Thank you.

MR. ERGIL:

Thank you very much.

APPLAUSE**P.O. TONNA:**

Robert Kozakiewicz. Is Supervisor Kozakiewicz here? Hey, how are you? Good. Kozakiewicz. Sorry about that.

SUPERVISOR KOZAKIEWICZ:

That's fine. Thank you for allowing me to come up and address yourselves, Presiding Officer Tonna and fellow Legislators. I'm here to address you with respect to the quarter percent monies used for law enforcement purposes, specifically Resolution 21A, which had been previously adopted by this body.

Let me begin by saying what I'm not here to do. I'm not here to point any fingers, I'm not here looking to shift any blame, because the blame falls squarely on the Town of Riverhead's shoulders and particularly my shoulders for having missed the important deadline of March 31 of this year with respect to the reporting requirements established by this body with respect to the quarter percent monies.

However, let me also comment with respect to that. Internal audit controls have been put into place. It has been made clear within my operation that such oversights, such mistakes cannot occur anymore, and I pledge to you that they will not.

I am going to refer to a letter of November 14th, which has been sent out to the Legislators, which notes that the report that was required has, in fact, been forwarded to Mr. Barton by a letter of November 8th, and I believe that copies of that letter should have been faxed over here this morning and hopefully you all have them in front of you.

I'm going to speak from a standpoint of which I understand, that is the body of law, of being a lawyer. Law has two aspects to it, the rule of law and the law of equity. From the rule of law standpoint, we blew it. We failed to miss the -- we missed the deadline. We failed to provide the report to you. But as pointed out, we have taken measures and that will not occur again.

On the law of equity side, I'm here to appeal to you from the equitable standpoint. Yes, we missed deadlines before, and that's not a real good excuse, however, I offer that point to you

from the standpoint of the mind of the Town of Riverhead. We had failed in the past and there had not been the punishment, the penal aspect imposed upon us.

There had been, perhaps incorrectly, the mind set that that would continue on, that we could miss deadlines and when the call or the reckoning came to us, we would respond quickly to make sure that we took care of matters with this body.

As I point out, this is not a great equitable argument, however, I do point it out to you to point out that from our mind set this had been something that had happened in the past, we had not always been timely in responding with the report, and there had been a change, in essence, again, I'm not looking to shift blame, as far as what the repercussions and what the penal aspects are for failing to do so.

P.O. TONNA:

Just your time is up, but I would ask you to continue -- I have to ask the question, is there more that you would like to --

SUPERVISOR KOZAKIEWICZ:

Just one other thing and I will finish up and I will certainly keep it. I would ask this Board to keep in mind, as well, that this measure certainly will punishes the residents of the Town of Riverhead, not me, but the Town of Riverhead residents, who are also the County residents.

I would also point out that in my small town of 78 square miles, 27 thousand people in population, by virtue of some of the commercial aspects, including Tanger, we do contribute to the sales tax and from an equitable standpoint, while we contribute and we do provide a revenue to the County, I believe it would be unfair if that money would not be shared with the Town of Riverhead and I'm asking you to consider that from a fairness standpoint. Thank you.

P.O. TONNA:

Thank you. Legislator Caracciolo, do you have --

LEG. CARACCILOLO:

Thank you.

P.O. TONNA:

Just as an aside, just -- by the way, where do you stand on the sales tax?

SUPERVISOR KOZAKIEWICZ:

I'm here for the narrow issue of law enforcement, Presiding Officer.

P.O. TONNA:

Okay. As far as the list is concerned, Michael, you're just going to have to hold, Legislator Alden has the first question, set of questions.

LEG. ALDEN:

Mr. Supervisor, are you aware that last year you went way past the deadline and Legislator Caracciolo actually crafted legislation that let you off the hook and got you the money last year, but with the proviso that it couldn't happen again, are you aware of that?

SUPERVISOR KOZAKIEWICZ:

I was not aware that there had been the one last chance put before or made as part of this issue. I will, again I'm not looking to shift blame, I'm not looking to -- I will respond by saying that this is clearly a wake-up call. There is no question in my mind that people within my operation are acutely aware of the repercussions they have created. I will not shift blame, I will take blame

LEG. ALDEN:

Last year was a wake-up call, because we clearly -- we have some procedures that have to be followed so that we can do our budgets and we can stay within the confines of the law. And part of our requirements are that you have to have certain paperwork in before we can send you any money.

Legislator Caracciolo last year, when you were in violation of that and in -- I mean you were right on the brink of losing, and actually you were passed the brink because you had lost the funds last year, Legislator Caracciolo crafted legislation that allowed that to slip by one time, your, whatever you want to call it, tardiness or just dropping the football, whatever you want to call it. Last year should have been the wake up call, because we've already done our budget.

If we were to restore the money to you, we're out of whack on our budget, we're in violation of

the law, and that's not fair to everybody else in Suffolk County, because one town, and in this instance it was two municipalities that really couldn't get their things together in a timely fashion.

And both of you, the other was, I believe it's Nissequogue, the Village of Nissequogue, both your municipality and the Village of Nissequogue knew about this last year because both of you were flirting with losing the money last year.

And when you say fairness, we have to be fair to everybody, because we have to live by certain laws and rules and regulations which means that that covers everybody in Suffolk County, and if one town or one municipality can't, we can't go back and do anything about a budget that's already adopted now.

SUPERVISOR KOZAKIEWICZ:

As I pointed out, Legislators Alden, there are two aspects to this. There's the legal theory, which is what you're discussing, that legal aspect. I am asking that the equitable aspect be considered

LEG. ALDEN:

You're asking us to throw out any rules and regulations. Last year you had a wake-up call, you lost the money, but for the efforts, and quite frankly, I didn't agree with him when he put the resolution in last year, but he convinced me that there was an equitable argument, that you should get the money and convinced me to come over to a different choice as far as my vote. And that was only because Legislators Caracciolo made that argument last year.

How many times can we make that argument, we adopt a budget and then somebody comes in and says, well, we didn't get our paperwork in, but, you know, equitably we should -- how many times can we do that?

SUPERVISOR KOZAKIEWICZ:

I understand what you're asking and I'm telling you no more after this. This has -- and I know that may sound difficult to believe and hard to believe, but this -- I'm here. I understand the significance of what this Board has done. I have and I will reiterate that this issue has been addressed within my operation. There will be internal audit controls to make sure it does not happen. I will not be back next time if it should happen, but I'm telling you it will not happen

LEG. ALDEN:

Paul, I'm all done.

P.O. TONNA:

You're all done, Legislator Alden?

LEG. ALDEN:

Yes.

P.O. TONNA:

Okay. Legislator Caracciolo and then Legislator Carpenter and Haley.

LEG. CARACCIOLO:

Thank you, Bob, for coming in this morning. I think that's very important. I think it shows that the head of Town government takes this matter seriously, serious enough to put aside a busy schedule and share with my colleagues how important this money is for the 27 thousand residents of the Town.

I just want to address the issue a little bit differently, because I really take great umbrage and exception with your Executive Assistant repeatedly telling people in the press that this matter occurred because somehow or another it was orchestrated by this Legislator.

Now, I submit to you, almost everyone is in their seat except for three or four, take this opportunity, if you will, and make inquiry of anyone at this horseshoe if there's any shred of proof that backs up that assertion, because then I challenge him to produce it.

I spoke to a reporter who said they spoke with Joey { McClellan} , your Executive Assistant, and he had a conversation with Legislator Haley, Legislator Guldi, and Legislator Foley, and during the course of those conversations they made assertions that Legislator Caracciolo had something to do with that.

Well, as soon as I heard about that from the reporter, I think you know me well enough, I immediately called every one of these Legislators and they each denied that ever took place.

This individual does not serve you well, does not serve the Town well, which leads me to the

question, who in Town Hall has the responsibility of filing that document?

SUPERVISOR KOZAKIEWICZ:

I really did not want to get into an issue of shifting blame.

LEG. CARACCILO:

I know that and I respect you because I read your comments in the paper.

SUPERVISOR KOZAKIEWICZ:

What I will say -- what I will say is what occurred with respect to this year and I will point out what took place. With respect to this issue, I received Mr. Barton's letter informing my office, it was addressed to myself as the Chief Executive Officer of the Town of Riverhead, that the report must be filed by March 31 of this year.

That document, that information was then memoed to the Accounting Department, which in my mind set, is the appropriate department in as much as this required fiscal reporting and financial accountability to this body to respond by March 31, 2002. I can just tell you that with respect to that particular mechanism, that's how it was done with -- this year, the 2002 calendar year.

As I've indicated earlier, this is extremely upsetting to me. I have never blamed you, Legislator Caracciolo.

LEG. CARACCILO:

Thank you.

SUPERVISOR KOZAKIEWICZ:

I have never, ever attempted in any way, shape or form to shift the blame and I'm not here to shift the blame.

LEG. CARACCILO:

Thanks, Bob. I think there's one other fact you need to be aware of that may make this very difficult today for some Legislators. As you probably have read in the newspaper, the County is faced with an increasing shift of costs from State government to County government mandated, unfunded State mandates from Medicaid, retirement insurance costs, which I'm sure you're experiencing increases at the town level as well

SUPERVISOR KOZAKIEWICZ:

Yes, we are.

LEG. CARACCILO:

That said, in order for these funds to be restored either by the veto override or by separate legislation, which I have once again filed, but will not be eligible until early December, in either -- in either instance, it will require the Legislature to vote to increase general fund property taxes in this county by a million dollars.

That may not be acceptable to some of my colleagues. I've spoken to some of them about that. Some of them find it acceptable, some do not. So I just want to share with you that fact, so that if we don't prevail today, I'm not certainly throwing in the towel. I will pursue it and try to convince my colleagues over the next month and several months, if necessary, to try to make the Town whole, because I believe it's the right thing to do. Thank you, Bob.

SUPERVISOR KOZAKIEWICZ:

Thank you, Legislator Caracciolo.

D.P.O. POSTAL:

There's another -- there are other questions from Legislator Carpenter. Legislator Carpenter.

LEG. CARPENTER:

Thank you. I have a copy here of a letter that you sent to all the Legislators, and it says here that your office was informed that the Legislature had eliminated the quarter cent portion of the revenue sharing, and you further stated it's unfortunate that no one contacted my office prior to this vote.

Now, I find that rather disturbing because we had extensive discussion on this. The Clerk of the Legislature made it abundantly clear that many, many, many attempts were made to contact the Town of Riverhead, and now you stand up here and you are admired -- you know, I'm admiring you for standing up here and taking responsibility, but it conflicts with what you wrote in your letter.

And you further state that, you know, legally, you know, on one hand there's the letter of the

law, but then there's the spirit of the law is what you're, you know, I'm getting that you're referring to. And as elected officials, you know, we are sworn in to uphold the law. So, you know, as much as I support revenue sharing, I think it is the fair and equitable way to go, I have no problem with the concept, I have always supported it, even though I have just two small villages in my legislative district that get minimal amount of money, nowhere near the amount of dollars that go to the Town of Riverhead, yet they, you know, manage and they are -- some are villages that don't have people in place in the winter when these -- this paperwork comes in, yet they managed to get the paperwork filed on time.

And to hear what Legislator Caracciolo is saying this morning, you know, almost having to defend his actions, this is the first I'm hearing about it, and I find that very, very disturbing, because I want to tell you, from this Legislator's perspective, there's no one who fights harder for the Town of Riverhead on this body than Legislator Caracciolo does.

And he does more -- gets more than the fair share back to the Town of Riverhead in many, many ways, in acquisitions, in grants, in everything else that he does. And we often joke about it, especially those of us who represent the west end, because we don't always have those same kinds of opportunity to bring back funding for our communities as he does.

So, you know, I don't know if legally, and that's a very important fact, you know, we've got to approach this legally, if there is a way that we can do this legally, I don't have a problem with that, but not at the expense of the rest of the taxpayers in the County of Suffolk.

SUPERVISOR KOZAKIEWICZ:

Can I respond?

LEG. CARPENTER:

Absolutely.

SUPERVISOR KOZAKIEWICZ:

First and foremost, as I've indicated, if someone in my office has been disparaging anyone on this Board, that will need to be addressed. I'm unaware of that until this morning.

As far as the issue with respect to my letter, my letter is to the extent of getting noticed prior to the vote. I probably could have worded it better to say that I was not in contact with anyone.

However, with respect to the other issue, the notification, I will fully admit that there was a letter or a fax from Mr. Barton, which included the resolution. The notification of the resolution, I will again stand before you, I'm not looking to shift blame, we received, the vote was what caught me by surprise and that's what the letter is pointed to ,the vote. Okay.

LEG. CARPENTER:

Thank you.

D.P.O. POSTAL:

Legislator Haley.

LEG. HALEY:

Thank you. I know in the past -- in Riverhead in the past, they were late last year and -- weren't they late last year?

SUPERVISOR KOZAKIEWICZ:

There were years where we were late, but not uniformly.

LEG. HALEY:

And that usually is out of Audit and Control in you Department sometimes?

SUPERVISOR KOZAKIEWICZ:

It's the Accounting Department, Legislator Haley.

LEG. HALEY:

It seems to me -- which predated your election to Supervisor. Accounting apparently on a regular basis was somewhat late and it was just a matter of course that they managed to get away with sending it in late.

SUPERVISOR KOZAKIEWICZ:

Which is no excuse.

LEG. HALEY:

And on equity, you know, it's easy, all right, you're late with paperwork, and I honestly don't

think it's a big deal, but I think what's happened is I think the Legislature somewhat respected -- reacted to what they thought was, you know, the Town's lack of -- I'm trying to think of the right word without saying --

LEG. CARACCILO:

Transiency.

LEG. HALEY:

What?

LEG. CARACCILO:

Transiency.

LEG. HALEY:

Transiency. No, I wouldn't say that. Lack of respect, if you will, for the Legislature and the laws that we present, especially when it comes to revenue sharing. Although, I want to tell you that you've made it very clear today that you're going to straighten out your accounting department and that will never happen again, is that correct, in the interest of asking a question?

SUPERVISOR KOZAKIEWICZ:

Absolutely.

LEG. HALEY:

And I'll just finish with I think it's quite substantial, because I think each and every one -- although it's tough probably for this Legislature to think it could ever be wrong, but I do think that all of us make mistakes at times and I think it's profound that you came here and you said, yes, we screwed up, you know, let's think about equity and we won't do it again and I have a lot of respect for you for doing that.

SUPERVISOR KOZAKIEWICZ:

As I indicated, I am here not to shift blame. I am here out of respect for this Board. I am here to reiterate or once again state that this issue is one that has certainly reached the forefront and my accounting department, as a matter of fact, all -- a lot of other internal audit measures need to be addressed and rectified. I don't want to ever come back to this Board under these circumstances again, or any other body for that matter.

LEG. HALEY:

I don't blame you. Thank you.

D.P.O. POSTAL:

Legislator Nowick.

LEG. NOWICK:

Thank you, Mr. Supervisor, for coming down. And to put this in a form of a question, because I know that's what we have to do and because I'm watching you standing there and being very strong, and are you aware that the Village of Nissequogue is also a part of this? I just want you to know that you're not the only one, and that Supervisor Caracciolo and myself are going to be fighting for this.

SUPERVISOR KOZAKIEWICZ:

Legislator Nowick --

LEG. NOWICK:

Supervisor -- I'm sorry, Legislator Caracciolo. Well, you never know.

SUPERVISOR KOZAKIEWICZ:

The answer is yes, I am aware. I have a copy of that particular resolution, which details that aspect as well, yes.

LEG. NOWICK:

Just so you know that.

D.P.O. POSTAL:

Thank you, Mr. Supervisor Caracciolo, Mr. Supervisor K. Are there any more questions? Thank you, Supervisor Kozakiewicz.

SUPERVISOR KOZAKIEWICZ:

Thank you for giving me your courtesies and time.

D.P.O. POSTAL:

The next speaker is Marnae Ergil. No, we had Mister or Dr. Ergil. Now we're looking for Marnae Ergil, is she here? No? Next speaker is Claudia Basuk Dash. Is she here? Go ahead, pull your microphone down towards your mouth.

MS. BASUK DASH:

Thank you. My name is Claudia Basuk Dash. I am a nurse practitioner, and my husband is an ENT physician in West Islip. We are the parents of three teenage children who tell us that among high school students the use of dietary supplements with ephedrine is rampant. This is an extremely dangerous substance, over the counter, easy to buy and having very serious side effects. It effects the heart and lungs, causes mood swings and it is addicting. These products have been promoted as fat burning, muscle sparing, energy and metabolism enhancing. Teenagers today are very into looking good, feeling good, and they enjoy their workouts in gym. However, stores such as the Great Earth in the Walt Whitman Mall are luring these teens to buy more and more, rewarding them with a point system as the purchases increase and are encouraging the use ephedrine containing products among all our teenagers.

From my experience, I can tell you there is no proof of age required, even though the bottle clearly states, quote, should not be sold to anyone under the age of 18. When Congress passed the Dietary Supplement and Health Education Act of 1994, it created an inequity between the marketing of medicines and supplements. This legislation places the burden on the FDA to prove that a supplement is harmful before it can be removed from the market. But in stark contrast, medicine approved by the FDA must satisfy many safety and efficacy requirements before it can be sold.

Drug companies have taken advantage of the current status of ephedrine, which is in products marketed as dietary supplements and have attempted to produce a, quote, legal amphetamine mixing it with other stimulants such as caffeine. There is little or no premarket review by the FDA of their safety, no good dosing information, no monitoring advice. Even when a manufacturer is forced to withdraw a product, little can be done to prevent the fresh marketing of the product under a new brand name.

In August, the Justice Department began a criminal investigation of Metabolife International Incorporated, which makes a popular brand of ephedra that has been linked to dozens of deaths, strokes and seizures in recent years, and it refused to report patient complaints to the FDA. Our teenagers are coming into a world where they are exposed to the dangers of cigarettes and

ephedra. They are asked to make decision amidst peer pressure and sales pressures. They are encouraged to buy, buy and buy more, accrue the points, try the supplements, have that beautiful body and that feel good attitude. However, after only taking these products for a few days, they may not even know it, they are addicted and they may not know how to get out of it.

Teens don't know that they ought to beware when seeking over the counter advice. Often these stores are staffed by young men and women, themselves body builders. They encourage the teens to purchase these products without ever discussing the risks, dangers and serious side effects. They just sell the stuff and make their money. Our teens are victims of these circumstances, and they are too young and immature to know what happened. Our job is to ban any product containing ephedra. This should not be a political issue. Forget whether you're a Republican or a Democrat. This should be a concern we have for all of our citizens, young and old who need to be educated as to the dangers involved. Think about --

D.P.O. POSTAL:

Ms. Basuk Dash, I'm sorry, but your time is up. Thank you for your testimony.

MS. BASUK DASH:

Okay.

D.P.O. POSTAL:

Our next speaker is Claire Millman.

MS. MILLMAN:

Good morning. I am Claire Millman, President of the Alliance for Smoke Free Air. And we urge immediate passage of Intro 2020 so that Suffolk can join Nassau in providing the health protection of a smoke free workplace for all employees. Unfortunately, disease and death do not wait for specific dates, and this epidemic causes disease and takes lives daily. We have provided a wealth of health data, economic data, tourism data, testimony from restaurateurs of already totally smoke free restaurants and bars, sales tax data where these regulations have been in effect for many years confirming absolutely no negative impact on business in a now very many localities where smoke free is a way life and the results of all public opinion poles evidencing the tremendous popularity of these laws including their support by a large percentage of smokers.

At this time of uncertainty and concern for the protection of the health and safety of our citizens

from terrorist attacks, allowing the killer in our midst, which is our number one health and health care problem to continue to devastate its unwilling victims is unconscionable. The following is a quote from an article in the nation's Restaurant News Magazine, November 4, 2002, written by Michael { O'Neil} , the owner of { O'Neils} Restaurant in New York, past president of the New York State Restaurant Association and their New York City Chapter. He was also the National Restaurant Association Board of Directors member for nine years. I quote, in nearly every state and city across the nation when the issue of smoking bans comes up, the fiercest opponents are restaurant associations working in tandem with the tobacco industry. In fact, those ties are so carefully concealed that in many cases individuals and chain restaurateurs have no idea to what extent Big Tobacco is driving the smoking policy for their trade groups. Quote, while such smoking bans have been foreshadowed with dire warnings the tobacco industry predicted of billions of dollars of sales losses and hundreds of thousands of lost jobs, none of those catastrophic forecasts has come true.

In fact, there is no better endorsement of smoking ban's harmlessness than the response from the restaurant industry itself. After the California ban, in New York City regulations were implemented in the mid 1990s, new restaurants continued to pour into those markets in historically unparalleled numbers. Would restaurateurs keep opening so many new restaurants if they felt their typically thin profit margins had been destroyed by smoking bans in those markets, end quote. He ends the article with this quote, there is no safe level of exposure to the 43 carcinogens in secondhand smoke. Smoking bans are a form of safety as simple as seatbelts and the evidence to use them for protection is overwhelming. I would venture to say that there isn't one in this room who has not personally suffered the loss of a relative or friend due to tobacco smoking or secondhand smoke. You have the awesome ability to save lives. Please, pass this bill without further delay. Thank you.

D.P.O. POSTAL:

Thank you, Claire.

APPLAUSE

D.P.O. POSTAL:

Next -- oh, there's a question from Legislator Foley.

LEG. FOLEY:

Thank you, Claire, for stating so clearly and forcefully the reasons why we should support this particular resolution. I just want to have you amplify one particular part of your presentation. In the past, we've heard from a number of restaurant owners who are opposed to this, but as you rightly point out in your testimony today, is it not -- is it not true that there are a good number of restaurant owners and others within that industry who are, in fact, supportive of this approach?

MS. MILLMAN:

There are very many restaurant owners who are supportive of this bill. There are so many restaurant owners who went smoke free years ago and can verify that there was no loss of business. In fact, there are so many nonsmokers who won't walk into these places, nobody walks into a tavern if they have any presence of mind or common sense where there is -- it's like a gas chamber. I would love to walk into those places once in a while. And nonsmokers are the majority.

LEG. FOLEY:

Just a follow-up, Madam Chair. One of the points they also raise as well, it should be a matter of choice. Just as the issue choice is raised in some other policy forums, but the issue of choice now has now become not a concern, but a point of view of those who oppose the bill. And how would you respond to those who say there should be a choice --

MS. MILLMAN:

I have testimony addressing that for this afternoon's hearing. If I could read it now, I would be very happy to do so.

D.P.O. POSTAL:

Claire, I think really --

MS. MILLMAN:

It's very short.

D.P.O. POSTAL:

It doesn't make any difference. I think it would be better if you read it this afternoon, because it would be related to a specific bill. We don't have a public hearing on this bill, so I assuming that it's a testimony related to another bill.

MS. MILLMAN:

It's for public hearing addressing the proposed -- the proposed choice bill.

D.P.O. POSTAL:

I think it would be better if you gave us that testimony at that time.

LEG. FOLEY:

We would like to see you a second time today anyway, Claire.

MS. MILLMAN:

You will see me for that hearing.

LEG. FOLEY:

Thank you.

MS. MILLMAN:

What time is that hearing, may I ask?

D.P.O. POSTAL:

2:30.

LEG. FOLEY:

2:30.

MS. MILLMAN:

I will be here, and I have my testimony.

D.P.O. POSTAL:

Thanks, Claire. Next speaker is Judy Pannullo. Is Judy here? I know she was here earlier.

Okay. Next speaker is Martina Arce. Ms. Arce, please begin your testimony.

MS. ARCE:

Okay. I was hoping she'd start first, but okay. My name is Tina Arce. I have been married for

thirty-one years and have two grown sons.

D.P.O. POSTAL:

Can you just speak into the microphone.

MS. ARCE:

One is a New York City Police Officer, and the other is a Highway employee for the Town of Islip. I have three grandchildren, care for two foster care boys, ages 16 and 15 now. One is infected with HIV and the other is affected. Their older brother, who is now 18 is mainly why I'm here today to talk to you about the situation my family is experiencing. I am also here to inform you that I know there are other troubled HIV positive adolescents who are going to need this type of intervention, and I hope that your committee can help me by addressing the need of residential placement, find funding to support the services and make sure that programs exist for these children with the medical problems and development problems, behavioral problems and mental health issues.

Across our nation, the fastest growing population of individuals infected with HIV are adolescents ages thirteen to 24. In 1994, I thought my life it was pretty normal. I had just gone back to work after my son was off to college and the other was in private high school. After a few months I had a hysterectomy, my husband's job was going to end due to relocation and my husband's brother and his partner died within a week of each other from complications due to AIDS. My husband's brother had three adopted children, boys six, seven and ten years old and had asked if we would care for his children. That is how I got the boys. My oldest boy came with many problems and a virus called molluscum. This type of viral wart is very common in HIV infected persons. Some believe it's sexually transmitted. He had warts all over his face.

Between his various medical appointments for the reoccurring outbreaks and bedwetting every night, I knew he already had a rough life and was going to be a challenge. I immediately called LIAC and told a complete stranger my story. The volunteer had no information to help guide me to my next step. I met a volunteer from Make a Wish Foundation and told her my problem. She referred me to the University Medical Center at Stony Brook and got involved with the Pediatric AIDS Unit. My boys still receive their medical treatment from them and are under.

Dr. {Sharon Nockmin's} care. I could not believe the services they offer.

Little did I know that this would become part of my new life. I started getting involved with HIV

Committees and Councils, but often never spoke up. That's because I wondered what I was doing there. I finally got the support I needed to stay strong as I was going through the beginning of my never ending struggle. And then in 1999, I was rocked again when the oldest boy, 14 at the time, tried to incest one of the kids, and I was forced to make a decision that was very difficult for me, but I had to protect the rest of my family. Thank got for my child who spoke up. I went to the courts and sought help. After having to have him adjudicated, he was placed in South Oaks. South Oaks wanted to discharge him back to my home, and I had to fight with them because that would not have been an option for my family.

D.P.O. POSTAL:

Ms. Arce, I have to stop you, because your time is up, but can you tell us about your continuing struggles with that child, and the situations with your other children?

MS. ARCE:

Yes.

LEG. FIELDS:

Just continue.

D.P.O. POSTAL:

Just continue.

MS. ARCE:

He then went to Sagamore and worked very hard to get him into.

St. Mary's, because they felt he needed a sexual offender's program. He waited for placement to St. Mary's for five months. When he was finally placed at St. Mary's, he tried to commit suicide and was placed back in Sagamore and then placed back at St. Mary's to be hospitalized again, this time he was sent to Brunswick Hospital. He was released to St. Mary's and still resides there today. However, now that he is 18, he has aged out of their program, which has already received extended time through the Suffolk County Probation Department. He is considered an honor student by St. Mary's standards, they go a point system. He has an IQ of 76, so he does not qualify for OMRDD assistance. The IQ must be 70 or below to qualify. So now they have found a place for him called Judge { Rodenburg} . This facility seems to be a place that could meet all of his needs which is located just outside of Boston. The program cost \$197,000 a year. I am waiting to see who is responsible for paying his way. My entire family

has been involved with his placement -- with each placement site and treatment plan.

Now on one hand, I am grateful that there is a place for him to go to. On the other hand, I'm wondering how my family is going to be able to afford to see -- to visit him. After all, his support system is here in Suffolk County, where his siblings, extended family and his medical providers are the only people he has ever learned to trust. I'm still a care giver for his two brothers that are still with me. For the one that is infected, it is difficult to make sure he gets his prescription medication and administered exactly how I am supposed to. We have changed our daily routine many times because of this, both boys worry about their brothers and each other. The older boy has now regressed and has begun wetting the bed again. He is on so many psychotropic medications and seems to be zoned out all the time. I believe he is acting out or rebellion now that he knows he may be sent to Massachusetts.

I have been advocating for my situation and hope to find a placement here in Suffolk and not yet been able to locate one. I know that you can research this situation, and I think -- and can think of a solution by finding a way to solve it. It would seem to make sense to expand on existing programs that already work with children with multiple needs and increase the level of intensive ones on one of these services, instead of footing the bill to send him out of state. I have enclosed a copy of an article that appeared in Newsday on September 22, 2002, about the cost of out of state placement. We must do something now because I know I am not the only one who is experiencing this. I have a list of questions, but, of course, with time, I've put it all in the packet. And I'd just like to thank you very much for listening to me and, of course, Legislator Foley for giving me the courage at the last meeting to continue my fight.

D.P.O. POSTAL:

Ms. Arce, Legislator Haley has a question.

LEG. HALEY:

No. I just wanted to help her to continue.

D.P.O. POSTAL:

Thank you very much.

MS. ARCE:

Ms. Bartik is with me, she wanted to say something.

D.P.O. POSTAL:

Did you fill out a card?

MS. BARTIK:

Oh, yes.

D.P.O. POSTAL:

Okay. Oh, yes, Patricia Bartik.

MS. BARTIK:

Hi, how are you? I'm a project advocate for SPARC, which stands for the Suffolk Project for AIDS Research Coordination, and we're based out of the University Medical Center at University of Stony Brook. And we currently service -- this is a new population that we haven't, you know, dealt with. We're seeing a population now of kids that were prenatally HIV infected aging into adolescents. And we currently service 86 children that were born HIV positive here in Suffolk County, and out of those 86 kids, eight kids are living in Suffolk County institutions, and that includes prisons, residential or health care facilities.

Through my collaboration with other delivery systems, I've learned that here in Suffolk County, when we have one house that is for transitional services for kids ages 18 to 25. So this is a real problem for Suffolk County where we continue to send these kids out off our County to \$200,000, you know, residential placements. And it's more of a burden on the family here in Suffolk County. So we already presented it in front of the Health Committee, and we were planning on speaking in front of the Social Service Committee, but we decided to come to this Legislative meeting to let all of our Legislators know that this is a real problem in our County that not only HIV positive children are facing, but other children with severe mental health services and for families in Suffolk County.

And I wasn't allowed to fill out two cards, but I also enclosed in the package information on a program called Women Wake Up, and I networked with the woman, Ms. Heath, from the Women's Advisory Committee on issues that single parents face here in Suffolk County. So I have some information for you as well with that. So I thank you for this opportunity, and I look forward to meeting with you in the future to hopefully discuss this more in further detail to see what kind of creative opportunities we can come up with to address this need. Thank you.

D.P.O. POSTAL:

Thank you. And I know there's a great deal of material that will be distributed to us. The next speaker is Dr. Arthur Grollman. Dr. Grollman? The next speaker is --

LEG. FISHER:

Probably at the press conference.

D.P.O. POSTAL:

Oh. Is Rory Kerr. Oh, I'm just going to move along if they're outside. Barbara Charles? Okay. Are you Dr. Grollman? No? You have to tell us your name.

MR. KERR:

My name is Rory Kerr.

D.P.O. POSTAL:

Okay.

MR. KERR:

Thank you. I'm a -- I live in Huntington. I'm the Chair of the Department of Herbal Medicine and Oriental Sciences at New York College, which is just over the border in Syosset. And I've been a practitioner of Oriental medicine, Chinese medicine specifically for about 20 years. I am well informed as to the standards of education and practice in Oriental medicine. And I can say that the standards for the appropriate use and the safe use of Ma Huang well established. Whatever its good intentions, one consequence of 1954 will be to deprive patients including many residents that come to the New York College clinics of a safe and effective treatment by Oriental medicine for several diseases, including upper respiratory tract infections, allergies, asthma, bronchitis, pneumonia, emphysema.

LEG. HALEY:

Excuse me, sir. Madam Chair, we hardly have anybody in here. I want to tell you on the record I resent having press conferences when we're supposed to be sitting here listening to the public. Now we don't have sufficient people out here. And the people who want to speak before this Legislature have found themselves compelled to participate in the press conference.

D.P.O. POSTAL:

Legislator Haley, I certainly don't disagree with you, but I have to tell you that there are a great many Legislators who are not here who are not participating in that press conference. And every single meeting I sit here and I count the number of Legislators, and at the risk -- I want to avoid embarrassing people, so the staff will usually tell you that I ask them to go out and get Legislators on rejoin us, and usually that's futile. They're unable to do that. Even though they go out and ask people to come into the auditorium, it doesn't happen. So it's not only people who are participate in a press conference, it's other Legislators. I do have the ability as the Chair to call a recess if we don't have a quorum.

LEG. LINDSAY:

We have a quorum now.

D.P.O. POSTAL:

But I think that punishes the public as well as all Legislators that have been in the room. So we do have a quorum now. And Dr. Grollman, I did stop the clock -- excuse me, Mr. Kerr, I did stop the clock, so your time will continue now. Please continue with your statement.

MR. KERR:

Yes. I agree it's a little unfortunate that Legislator Cooper is not here, since I'm speaking to his bill. Anyway, the point I'm trying to make here is that I have a concern about the use of Ma Huang, the misuse of Ma Huang in the public, by the public. And I don't know what the answer to that is, but what I don't want to see is you depriving people who are bringing legitimately and safely treated for serious diseases by Oriental medicine just because you want to preclude misuse of it by some people.

LEG. FISHER:

Maxine.

D.P.O. POSTAL:

I don't know that Mr. Kerr is finished.

MR. KERR:

I'd like to add something. There's been some talk about deaths from Ma Huang, and I have to tell you that I've been in practice for about 20 years and in all that time, I'm very well informed

about the reports of adverse effects of Chinese medicines. And in all that time, I have not heard of one case of a Chinese practitioner prescribing Ma Huang that has led to a death or that has even been implicated. I think there are other much more serious -- as Kevin Ergil pointed out, much more serious causes of death that are not being addressed. And maybe Mr. Cooper should focus his zeal seal on those things.

D.P.O. POSTAL:

Thank you, Mr. Kerr. Are there questions?

LEG. FISHER:

Yes.

D.P.O. POSTAL:

Legislator Fisher.

LEG. FISHER:

Thank you for being here, Mr. Kerr. I have a question with regards to the uses of Ma Huang. Here I am. Here I am. I know it's hard to tell where the voices are coming from. You indicated -- as I was reading Dr, Grollman's editorial and some backup material from Dr. Grollman, he --

MR. KERR:

I'm not familiar with that.

LEG. VILORIA FISHER:

Well, he should have spoken just before you, but he's out at the press conference.

MR. KERR:

Okay.

LEG. FISHER:

But he refers to ephedra being similar to -- well, I'm calling it speed and comparing it to epinephrine, and I know that there are very legitimate uses for those medications. My son had to carry an epi-pen for a while because of asthma and other allergies. And you peeked my interest when you referred to legitimate uses of Ma Huang that did not involve dietary

supplements. You said that it's used for bronchitis, asthma and what were the other uses?

MR. KERR:

Upper respiratory tract infections, allergies, bronchitis, pneumonia, emphysema -- actually, there's more than that.

LEG. FISHER:

Is it an anti-inflammatory?

MR. KERR:

It's -- I understand the use of Ma Huang in terms of Chinese medicine, and I don't think I -- it would be very helpful for me to go in to how I understand it in that way. But basically it has an effect on the lung and nasal mucosa that is the way we use it in Chinese medicine. It obviously has other effects on the body, including cardiovascular effects. But we -- we tend not to use it for that in Chinese medicine.

LEG. FISHER:

I see. There has also been evidence that there were 13,000 complainants or ill effects of ephedra that had been reported to Metabolife.

MR. KERR:

Okay.

LEG. FISHER:

The dietary supplement. And yet you're saying that you have never encountered one ill effect of Ma Huang.

MR. KERR:

No, I said deaths. I said there have been no deaths.

LEG. FISHER:

No deaths, okay.

MR. KERR:

Yes. There's been a claim in here that there have been deaths due to Ma Huang. I want to

make it clear that when it's used by practitioners, professionally trained practitioners of Chinese medicine, that there have been no deaths that I've heard of. And usually these things are reported. So I think I would have become aware of it.

LEG. FISHER:

So are you proposing a middle ground where it's treated as a controlled -- I don't want to use the term controlled substance because that's a legal term and I'm not sure of all its ramifications, but as a substance that would only be administered by a practitioner and not be available in over the counter form? Is that what you're proposing?

MR. KERR:

I am trying to avoid proposing anything, because it is such a complicated issue. What I am trying to do is to speak in defense of patients who receive a benefit with serious disorders. And I can't say that I see an easy solution, because once you start banning it in one place, it's very difficult not to ban it in other places. If it was possible to do what you're suggesting, I think I would agree with that, yes.

LEG. FISHER:

Okay. And you did say there were to your knowledge no deaths. What kind of ill effects have there been?

MR. KERR:

Well, there are well-known side effects of the use of ephedra. Some people are more susceptible to those side effects than others. Most people who take it don't have any side effects whatsoever. Some people are susceptible to side effects. People who tend to be easily -- in terms of the nervous system, seem to have that sympathetic nervous system easily stimulated, they will be more susceptible to the effects of Ma Huang. Those -- it's easy enough under proper supervision that those people then don't take it and the effect goes away. It's a temporary thing. It's only while they're taking the substance that it causes --

LEG. FISHER:

Increased heart rate, that kind of thing?

MR. KERR:

Yes. Exactly. Anxiety, heart rate, insomnia. If it's given in inappropriately high dosages, which

is usually not under the care of a Chinese medicine practitioner, it can cause a very high heart rate. It can cause high blood pressure. But those are dosages we don't traditionally use within Chinese medicine practice. So it's highly unlikely. But if it -- if it happened that a patient of mine suffered one of those adverse effects, I would, of course, immediately stop them from taking it. They -- they would -- in the dosages that I give and given the general level of care that's offered by practitioners of Chinese medicine and attention to detail, it's highly unlikely that somebody who shouldn't be taking it will end up taking it.

LEG. FISHER:

Thank you.

P.O. TONNA:

Thank you very much, sir.

MR. KERR:

Thank you.

P.O. TONNA:

Okay. I'm going to make a motion to table the public hearing -- public portion to the conclusion of the public hearings.

D.P.O. POSTAL:

Second.

LEG. CARACAPPA:

Second.

P.O. TONNA:

All in favor? Opposed?

LEG. TOWLE:

Mr. Chairman, just explain to the public what that is.

P.O. TONNA:

Okay. Now, can I ask my Legal Counsel to explain what I just said.

LEG. TOWLE:

Your co-Legal Counsel.

P.O. TONNA:

Yes. And I know not only are you the Legal Counsel, but you're also an attorney and a lawyer too, right?

MR. SABATINO:

I graduated.

P.O. TONNA:

Okay. So you're a lawyer, you're an attorney and legal counsel, that's great.

MR. SABATINO:

But I'm not a judge.

LEG. TOWLE:

Yet.

LEG. CARACAPPA:

Yet.

LEG. TOWLE:

We can take care of that.

P.O. TONNA:

Yeah.

MR. SABATINO:

The sequence of events now is that we will be dealing with the override of County Executive vetoes with regard to 2003 Operating Budget. Once that process is concluded, then the Clerk's staff will be in a position to start developing the 11 or 12 resolutions that we need to vote on at six o'clock tonight, if not earlier, regarding the setting of the tax levy. When we come back from the lunch break at 2:30, the public hearings on proposed local laws will be considered and then

at the conclusion of the public hearings, the public portion will pick up again, so that anybody who's signed a card who hasn't yet been called will be afforded the opportunity to speak after the conclusion of the public hearings sometime this afternoon.

P.O. TONNA:

All right. Now, can I get somebody to translate our Legal Counsel. Allan, you want to take a stab at it.

LEG. BINDER:

I didn't here all of it, sorry.

P.O. TONNA:

So basically we're doing -- right now we're doing the budget overrides.

MR. SABATINO:

Budget veto overrides from now until --

MR. CAPUTO:

Mr. Presiding Officer.

P.O. TONNA:

Joe?

MR. CAPUTO:

I was advised yesterday I could not speak this afternoon because of the public hearings, unless I was speaking on a public hearing question. So I was encouraged to get here this morning. And I'm here for that purpose. It would be a very much hardship on my part if I was asked to stay here until 2:30 to make my presentation.

LEG. ALDEN:

You can come back after -- around 3:30, four o'clock. He doesn't have to stay here.

MR. CAPUTO:

I know what I can do, wise guy, I'm asking for the courtesy to do it now.

LEG. ALDEN:

Excuse me.

P.O. TONNA:

Mr. Caputo.

LEG. ALDEN:

Excuse me, what was that comment?

MR. CAPUTO:

You heard me.

P.O. TONNA:

Cameron, I'll take care of it.

LEG. ALDEN:

That's a little out of order, isn't it?

MR. CAPUTO:

No, it's not.

P.O. TONNA:

Cameron. First of all, it is out of order. You can't just come to the podium and start speaking. We're in the middle of a procedure --

MR. CAPUTO:

I asked you.

P.O. TONNA:

You asked for the indulgence and you just insulted one of my colleagues. So you can go sit down. Now, let's just -- let's get on with the veto overrides. Okay. Now I would ask that we -- I would ask that -- where is Budget Review? I'm sure there's a number of questions to ask Budget Review.

LEG. ALDEN:

While we're waiting for Budget Review, Mr. Presiding Officer, could I make a motion to discharge IR 1699? It's a quarter cent. It's a resolution that would allow planning steps for a quarter cent -- the Islip portion of the quarter cent to be used to purchase a piece of property in my Legislative district.

LEG. GULDI:

Second.

LEG. ALDEN:

Paul, could I get a motion?

P.O. TONNA:

Motion and second to discharge which resolution?

LEG. ALDEN:

IR 1699.

P.O. TONNA:

What is that? What resolution is that?

LEG. ALDEN:

It's a quarter cent purchase of the old quarter cent, the Islip portion of the quarter cent for water protection.

LEG. CARACAPPA:

Has it been distributed?

LEG. ALDEN:

It's in the packet. I spoke with the Chairman of that Committee, and I don't think he's got a problem with it.

P.O. TONNA:

Could you just tell me what we're doing?

MR. SABATINO:

This is a motion to discharge 1699, which is currently in the Environment, Land Preservation Committee. This resolution would authorize planning steps for a half an acre of property on Sunrise Highway, north of Bonaparte Avenue near the Orowoc Creek in Islip, and the funding mechanism would be the -- funding mechanism would be quarter percent.

P.O. TONNA:

Just a quick question. This comes out of Energy and Environment and you're asking for a discharge.

LEG. BISHOP:

I do. But I need a clarification from Counsel. Which program does it come out of?

MR. SABATINO:

It's coming out of the pay as you go. Coming out of the quarter percent pay as you go.

LEG. BISHOP:

Counsel, I believe -- I believe it's coming out of the 12-5-3 funds.

MR. SABATINO:

This is the corrected copy, let me double check.

MR. SABATINO:

No. It's coming out of -- 1699 is from the pay as you go quarter percent.

LEG. ALDEN:

It was my intention to have that out of 12-5-E.

LEG. BISHOP:

May I make the suggestion --

MR. SABATINO:

There's not a corrected copy.

LEG. BISHOP:

Why don't you find out if there's an account balance in 12-5-E, and we'll take this up later. Maybe we can amend it.

LEG. ALDEN:

All right. I withdraw the motion then for right now.

MR. SABATINO:

If there's available money, we can -- the problem is if you do a correct copy, you wouldn't be able to vote on it today. That's the problem.

LEG. BISHOP:

Get a CN on it.

P.O. TONNA:

All right. Cameron, you withdrew your motion?

MR. ALDEN:

Yeah, because I need this information.

P.O. TONNA:

Great. Now let's go to the budget overrides. And basically, just so that I can get a sense of this, we are looking to override the omnibus as a totality, and then after that, do the stand-alones individually. Okay? Does everyone understand that?

LEG. LINDSAY:

There's two parts?

P.O. TONNA:

Yes. There's two parts; the M and the D.

D.P.O. POSTAL:

Mr. Chairman.

P.O. TONNA:

Yes.

D.P.O. POSTAL:

I would hope --

P.O. TONNA:

Let's make a motion first.

D.P.O. POSTAL:

Well, I'd like to speak before there's a motion made in the hope that there will be a motion to override. I would make a motion to override.

P.O. TONNA:

Right. I'll make a motion, seconded by Legislator Postal. On the motion.

MR. SABATINO:

You have to make the motion for -- the first resolution --

D.P.O. POSTAL:

Resolution 1M.

MR. SABATINO:

Which Resolution 963-2002.

P.O. TONNA:

I've made a motion to override 963-2002, the omnibus mandated in its entirety. Okay. Legislator Postal, you have the floor. And if anybody would like too speak, we'll put on the record.

D.P.O. POSTAL:

The County Executive says in his veto message that he's vetoing this resolution. And he says the same thing, by the way, for the next veto of Resolution 964, so my comments really apply to both of these resolutions, even though the first motion is for 963. But he claims that he's trying to maintain the fiscal integrity of Suffolk County and prevent a serious financial crisis and on and on and on. This is a continuation of the dire warnings that we have heard that this County is going to go down in fiscal flames unless we sustain these vetoes. And, you know, yesterday I

went through a history of the ten years of submission of proposed budgets by --

LEG. BISHOP:

Do it again.

D.P.O. POSTAL:

No, I don't think I'll do it again.

LEG. BISHOP:

No, that was good. Do it again.

D.P.O. POSTAL:

I don't think anybody -- well, if you want, I will.

P.O. TONNA:

No.

D.P.O. POSTAL:

No. But I will say -- I will say that over that ten year period, and I had pointed out just one little repetition --

P.O. TONNA:

Wait. Legislator Postal, hold it a second. I'd ask the peanut gallery, please, Legislator Postal has the floor.

D.P.O. POSTAL:

Just in the comments I made, I would just point out that the Legislature, in its actions with regard to revising the County

Executive's proposed budget, reduced the County Executive's recommended tax levies by eighty-nine million dollars, sales tax by 155 million dollars, Capital Program by 240 million dollars, at the same time, by the way, that expenditures increased by seventy-nine million dollars without -- and this is the important part of the report that was given to us by the Budget Review Office, without any structural imbalance in Suffolk's finances. And on top of that, providing an average operating fund balance of 23 -- 27.3 million dollars.

That means that our budget was not only balanced, it was not only prudent, but it resulted in, in essence, a savings every year. Not only a savings over the County Executive's proposed budget, not only an avoidance of increased taxes, but in fact, an increase and a very favorable situation with regard to our fund balance. Now, you know, before you decide that the County has any -- the County Executive has any credibility whatsoever with regard to this veto and the veto of the following amendment, I would ask you to take a look at the score card. After ten years, the score is Legislature, ten, County Executive, zero. I hope you will do the right thing for Suffolk County as we've done in the past and override this veto. Thank you, Mr. Chairman.

P.O. TONNA:

Thank you.

LEG. BISHOP:

on the motion.

LEG. HALEY:

Roll call.

P.O. TONNA:

No. We have a list of people. If you want to be put on the list.

LEG. BISHOP:

Please.

P.O. TONNA:

Legislator Guldi is after myself, then Legislator Caracappa, then Legislator Bishop. Budget Review, I have a few questions. The first is I just would like to talk about the structure of the vetoes themselves. I had a conversation with you prior to -- with regard to the packet of vetoes, and I understand there is some imbalance that if we actually sustained all his vetoes, that the budget would be, what, what would you call, it out of balance or?

LEG. CARACAPPA:

Big time.

P.O. TONNA:

Structurally unbalanced.

MR. POLLERT:

Considering the two omnibus bills, the County Executive has vetoed the detail on the omnibus bills, but has not vetoed the appropriate portions of the resolved clauses as well. So the resolved clauses do things like increase the airport landing fees. That portion was not vetoed out. One of the resolved clauses creates an enterprise fund. That was not vetoed out. Although the details were vetoed out in the back of the budget, the same thing is true with the Health Department fee increases. That resolved clause was not vetoed out, but the detail that showed the increased revenues were vetoed out. Likewise, there was an adjustment that the Legislature had made on the transfer of sales tax to the police district. That was lowered from the 16.5 million dollars. That dollar amount is included in a resolved clause which was not in fact vetoed, but the details that led to the decrease of \$14.5 million was vetoed.

So it's an unusual veto in the sense that none of the resolved clauses were vetoed. In addition to that, if the Legislature sustains a County Executive's vetoes, but does not increase the sales tax on clothing, the budget will be out of balance. There will be an imbalance between revenues and expenditures of about \$58.2 million. That being the case -- that being the case, property taxes would free float up, but they are restricted by the tax levy cap. So on the mandated side of the budget, they could free float up, but on the discretionary side of the budget, they would be capped based upon the level that the budget is below the tax levy cap as calculated by the Executive, because he did veto our interpretation that would have given him more room.

In total, the amount that property taxes would increase, absent the ability to raise sales tax on clothing, would be roughly \$32.7 million. So there -- there are a few major concerns with respect to both the Legislative actions as well as what the procedures are with respect to the resolved clauses on the omnibus.

P.O. TONNA:

Fred, just the resolved clauses, what is the impact of that? You know, translate that into --

MR. POLLERT:

You really can't calculate what the impact is.

P.O. TONNA:

In other words, is there a fiscal impact? Is it just -- is it an impact of confusion? What happens when you -- I guess what I'm sensing is you vetoed the guts, but you didn't veto the principal.

MR. POLLERT:

That's correct.

P.O. TONNA:

And by doing that, you have direction for the County to take, but you don't have any of the machinery inside.

MR. POLLERT:

That's correct.

P.O. TONNA:

What happens?

MR. POLLERT:

It would mean that I don't know what number to provide the Clerk of the Legislature with respect to what I believe the tax levy should be. The largest problem is with respect to the police district, where the amount of sales tax transfer was loaded -- was lowered by the Legislature. That detail was vetoed out, but the resolved clause continues to cite the lowered transfer in. So I'm not quite sure what number would be certified to the Clerk of the Legislature with respect to the tax levy.

Likewise, you have not considered the County Executive's Certificate of Necessity with respect to sales tax. That shortfall in revenues would flow through to property taxes, but the budget would still be out of balance by about 25 million dollars, because of the tax cap. So the only way that you could consider sustaining the County Executive's vetoes is if, in fact, you voted for the sales tax on clothing.

P.O. TONNA:

All right.

LEG. BINDER:

Mr. Chairman.

P.O. TONNA:

Legislator Guldi.

LEG. BINDER:

Can I ask you a question?

P.O. TONNA:

Sure. You want to ask me personally a question?

LEG. BINDER:

Well, about what your dialogue with Budget Review.

P.O. TONNA:

Is that okay, Legislator Guldi?

LEG. GULDI:

I yield.

LEG. BINDER:

In what way did the veto not cover the resolved clause? Because I'm looking at it, on the approved line it says vetoed. It says this resolution is vetoed in its entirety including scheduling and all other related attachments. Both of them say that. In other words, it says the whole resolution is vetoed and the attachments. How -- how is that the interpretation is that the resolved clauses weren't vetoed? I'm -- I'm not understanding that.

MR. POLLERT:

Just because if you look at the discretionary portion of the budget, normally there are vetoes for the resolved clauses as well, but none of the resolved clauses have been vetoed --

LEG. BINDER:

Wait. Wait. Hold on a second. That doesn't make any sense. I don't care what normally, on the line to sign the County Executive, where it says approved by, stamped vetoed, this resolution is vetoed in its entirety. How did you get -- because he didn't put a veto stamp on each resolved clause -- I have to tell you, Mr. Chairman, I differ with his interpretation. I don't

think because in the past -- because in a line item that a County Executive has stamped individual vetoes and resolved clauses that because he just did the end, the actual signing line here and he specifically says resolution is vetoed in its entirety that he didn't say -- well, and I think -- I think Budget Review Office's interpretation of that is wrong. It seems to me that the whole thing has been vetoed. Resolutions, attachments and everything. And I completely disagree with the interpretation. The County Executive shouldn't have to put a veto stamp on every resolved clause. He doesn't do it on other legislation. He just vetoes the signing line and says the whole thing is vetoed.

P.O. TONNA:

Very good point, Legislator Binder. I'll ask Legal Counsel, because I think it goes beyond Budget Review, right?

MR. POLLERT:

That's what the normal protocol is is that the County Executive has always included a veto line if he has resolved -- if he's vetoing the resolved clauses as well.

LEG. BINDER:

But that's not legal enforceability whatever protocol is.

P.O. TONNA:

Okay. Right. Legal Counsel.

MR. SABATINO:

I construed both of the omnibus bills as being vetoed in their entirety. I understand Budget Review's point which is that it was done differently this year as in prior years, but it clearly was vetoed in its entirety, which simplifies the override vote, because you're dealing with going and picking and choosing the particular line items. However, the second point that was made is the more important point, because the -- if the veto is sustained -- this is the interplay of the cap laws, okay, Budget Review is a hundred percent correct on this, if the vetoes are sustained under ordinary circumstances, the \$58.2 million on the revenue side would, in fact, free float dollar for dollar on the property tax levy, but because of the point at which we are in the cap laws this year, that wouldn't happen, you'd only be able to free float to 32 or \$33 million dollars, which would leave you with a shortfall of approximately \$25 million.

The only two ways to address that would be to either to get a separate subsequent resolution approving with 14 votes to pierce the cap by the amount of the \$25 million or the reinstatement of the sales tax. But if you're going to reinstate the sale tax, then you need a companion resolution to change the line item appropriations in the budget. Because otherwise, you'll wind up then with, well, 58 minus 25, you'll wind up with \$33 million more of revenue, which under ordinary circumstances in the absence of an appropriation changing the line items in the budget would be impossible to implement.

So it really is a very tricky, you know -- it's a very tricky situation to deal with on the override if you're going to sustain the veto, because then you have to have supplemental follow-up action taken before we vote tonight on the tax levy to make sure you don't wind up either with an imbalanced budget or with an effect that makes no sense, which is there's \$33 million dollars just floating around with no place to put it. So that's really the more critical issue of the entire discussion. It's how do you make all of this work within the cap laws.

P.O. TONNA:

Okay.

LEG. GULDI:

May I?

P.O. TONNA:

Yes, Legislator Guldi. But just to finish up, so basically the second part -- the second part -- the first part that the County Executive actually by -- as Legislator Binder has pointed out, by vetoing the resolution, it's vetoed in its entirety including schedule and all of other related attachments, basically says that the vetoes are in the order they should have been.

MR. SABATINO:

It's a complete veto. It was done differently than in the past, which make it look -- last night it was difficult to track, but this morning it became clearer.

P.O. TONNA:

Okay. Great. Thank you very much. Legislator Guldi. Thank you, Legislator Binder.

LEG. GULDI:

Thank you. Fred, the numbers that you just gave us -- first, I want to clarify the what if the vetoes are sustained question, which I had asked you to run some numbers before. Now, granted in the opportunity you had to run some numbers, you were working under the presumption that the resolved clauses stood. To the extent that the resolved clauses have been vetoed, how if at all does that change your analysis of the numbers that you just gave us in terms of what it would do to the County budget to have the vetoes sustained?

MR. POLLERT:

There would be no change, because I didn't know how to take into account the transfer from Fund 120, which I was under the impression had not been vetoed. So in total, there would be if the sales tax on clothing is not restored, a property tax increase in the general fund of approximately \$32.7 million.

LEG. GULDI:

Which would be 60% approximately over the existing tax?

MR. POLLERT:

Yes, it would.

LEG. GULDI:

So the effect of these vetoes would be a 60% property tax increase in the general fund. What would the increase be in the police district?

MR. POLLERT:

Because there was no real change in the police district with respect to the omnibuses, the rate increase as proposed by the County Executive, would remain. There was a tax increase of approximately \$20 million I believe.

LEG. GULDI:

So it would stay the same, is what you're saying?

MR. POLLERT:

Yes.

LEG. GULDI:

All right. That's a sufficient answer. You don't need to give me the number. The -- but the veto in addition to that property tax increase would still leave what issues unresolved?

MR. POLLERT:

It would still leave unresolved the fact there would continue to be an imbalance between total expenditures and total revenues.

LEG. GULDI:

So it would be a budget out of balance and out of compliance with the law, is that --

MR. POLLERT:

It would be out of balance. There's a New York State requirement that the County adopt a balanced Operating Budget, because property taxes can't free float to \$58.2 million. There would still be a shortfall in excess of \$20 million that would have to be resolved.

LEG. GULDI:

How would that -- could you certify the tax warrant without resolving that question?

MR. POLLERT:

I don't know, we have never been in this situation before.

LEG. GULDI:

Okay. But you wouldn't now how to do that without legislation changing the budget to makeup for the difference. Oh, well, let me rephrase the question. Isn't it customary and usual that when you -- when you adjust the budget that you submit companion legislation to show the impact of the adjustments you're making?

MR. POLLERT:

That would be a legal question I would defer to Paul Sabatino on. What I can say is that whenever we have certified the tax levy to the Clerk, a joint action of the Executive's Budget Office and Budget Review Office, the budgets have always been imbalanced. It is property taxes that balance out the difference between expenditures and all the other revenues. In this year, that can't be done because taxes can't free float.

LEG. GULDI:

Because of the cap law without a vote piercing the cap or a different revenue source, given this budget. But the veto messages came over with this \$25 million hole, essentially, without a plan to fix that, is that not what we're faced with by these vetoes?

MR. POLLERT:

The companion resolution, I believe was the sales tax on clothing.

LEG. GULDI:

Yeah, but it's been defeated.

MR. POLLERT:

It was defeated. It's a unique situation this year.

LEG. GULDI:

So what does it do to the budget if this veto is sustained? That's still the question.

MR. POLLERT:

If the veto is sustained, property taxes will increase \$32.7 million and the budget would not be imbalanced, and I don't know how to resolve that.

LEG. GULDI:

and how can we satisfy the tax warrant on a budget out of balance?

MR. POLLERT:

I would defer to Legislative Counsel. I don't know.

LEG. GULDI:

All right. Paul, you want to take a shot at the plan and the tax warrant questions?

MR. SABATINO:

The answer is you couldn't do anything other than what's been enacted. So you'd have -- you'd be adopting a budget with a built in shortfall of \$25 million. And the only -- the only recourse

would be that in the first quarter of the new year, the Executive would have to propose legislation to cut \$25 million of appropriations or to find some other revenue source that could be done in adequate time.

LEG. GULDI:

But that plan isn't before us, is it?

MR. SABATINO:

Not to my knowledge, nothing's been provided.

LEG. GULDI:

But we could certify the tax warrant with a budget out of balance. We could actually do what we have to do today.

MR. SABATINO:

Well, it's, uncharted waters. I mean, what you would have is -- it's a ministerial act to -- you know, to do the arithmetic and calculate the numbers. Just that in a case like this, you know you're \$25 million out of whack right out of the box. So probably the safest thing to do would be to postpone action on the tax levy and give the County Executive an opportunity to propose a solution, which would be a resolution for 14 votes to pierce the cap, in which case you can drive property taxes up another \$25 million. Or if there's a desire to go back to reinstate the sales tax on clothing, you still have to act before December 1st, but the problem is if you do that after having done this, then you've got --

LEG. GULDI:

Too much revenue.

MR. SABATINO:

Twenty-five million dollars -- I'm sorry, thirty-three million dollars of unallocated revenues, then you would need appropriating resolutions to change the budget. I mean, it's uncharted waters. I'm just giving you the different options. I'm not sure what would happen.

LEG. GULDI:

Okay. Fred, let's go another place, a whole other direction, and that is yesterday there was a great deal of talk and also concern although denied about the impact of the amendments of

omnibus one on the 2004 budget. What would the impact of sustaining the vetoes be on the 2004 budget, where would we be then? Do you have any -- obviously, I will confess, I'm blindsiding you with this question with no prep. Go ahead.

MR. POLLERT:

The property taxes if they were increased by that \$37 million would be a reoccurring revenue, which would be coming in in future years. Depending on how the Legislature dealt with the remaining \$25 million, if you increase sales tax on clothing to fill that gap, that would also be reoccurring. If the Legislature -- those are the only two options you have, because your phase of being able to amend the budget has come to an end. Can you not longer, to the best of my knowledge, amend the budget to be able to pick up other revenues, such as the revenues that the Health Commissioner brought to the table that were vetoed or transfers from Fund 120, which brought in \$8 million. So the County Executive could bring those options forward prior to the tax levy being set, but I don't think the Legislature could deal with them. So to the extent that property taxes are increased, that would be a reoccurring revenue to the extent that sales tax on clothing was restored, that in turn would be a reoccurring revenue.

LEG. GULDI:

But to the extent that the deficit was not corrected during the year and we closed with a deficit at the end of the year, where would that leave us, assuming that it stayed static, assuming that there was no -- there was there was still no plan and no correction?

MR. POLLERT:

It would leave you in uncharted waters, because I don't believe you could even access the tax stabilization reserve fund, which would have \$24 million in it, because it would have to be an unanticipated action to be able to access it. If the budget was adopted knowing that it was not going to be in balance, you couldn't even access tax stabilization reserve funds. You'd have to increase another revenue such as sales tax on clothing or you would have to strike \$25 million worth of appropriations on the net basis. On a gross basis, it could be more than \$25 million. Clearly if you decided to come up with \$25 million worth of reductions in social services, you'd need more than twice that amount to be able to close the net shortfall.

LEG. GULDI:

So the predictions yesterday we heard of \$140 million shortfall for next year, for 2004, would be aggravated by this or ameliorated by this? Are we talking about \$25 million more?

MR. POLLERT:

I would assume that you would try to deal with the \$25 million during the year by striking appropriations. In total for my budget model for 2004, which is not complete, because it's a very detailed model, but I have to wait until the budget is adopted, non reoccurring revenues account for about \$75 million of it. That amount would go down, but clearly you'd have a \$25 million problem that you'd have to deal with. So curiously enough, it could be that you might be in a better situation if you drove up property taxes by the \$37 million dollars.

LEG. GULDI:

Or 60% increase in property taxes?

MR. POLLERT:

That's correct.

LEG. GULDI:

The -- all right. Let's go to one other -- one other area that I want to focus on before I yield the floor and that is the turnover savings projections, the retirement, could you give us, for example, the -- what happened in the Planning Department in terms of how the vacancies of the -- created by the early receipt were handled?

MR. POLLERT:

Specifically, I don't remember what transpired in the Planning Department. In many County departments, titles were abolished that had not participate in the early receipt incentive program or titles which did participate were abolished and new titles were either added to the budget or individuals were promoted into existing titles. So in a few departments, they have had a higher backfill rate than we had originally anticipated, like in the Law Department. But in a few other departments, such as the Department of Social Service, they haven't yet caught up with the 25% backfill rate.

LEG. GULDI:

So -- all right. But the point -- the part of your report that I was -- trying to access and get to is the part that in some departments, instead of realizing the saving from early retirement, the backfill rate has been exceed, and in addition, junior personnel have been promoted and given raises by position transfers and the like. I believe it was Planning Department and another

department.

MR. POLLERT:

Law Department.

LEG. GULDI:

The Law Department. If that practice was -- how much is that practice going to cost us in turnover savings?

MR. POLLERT:

Frankly, I can't tell you. The third department that will have a higher backfill rate will be the Sheriff's Department as well, where you're basically backfilling 100% of the people that have left.

LEG. GULDI:

There, however, we're faced with the overtime problem of running the jail, which is different from the other departments, is it not?

MR. POLLERT:

Frankly at this point in time, we can't calculate it. I know that when Steve Levy was a Legislator, he often wanted us to try to validate what the savings are with the early retirement incentive program. It's impossible to do because with the creation of new titles and people being promoted into titles, you really can't validate exactly what the savings are. We look at the gross payroll costs and just try to track those as those increase.

LEG. GULDI:

And the gross payroll costs have continued to increase from year to year notwithstanding the early retirements; isn't that true?

MR. POLLERT:

In part because of AME contracts and unique contracts, yes.

LEG. GULDI:

But also in part because of backfilling positions, promoting personnel and merely replacing those who have retired at or at the same or similar wage rates.

MR. POLLERT:

That is also correct.

LEG. GULDI:

Okay. So thank you. In conclusion what I want to state is here we are faced with a set of vetoes that are so ill conceived that to sustain them would be to give us a budget that's out of compliance with state law. And arguably, flawed even worse than the criticisms that were leveled at omnibus one yesterday. The -- being kind of in limbo in the position of not -- having voted against the budget and having voted against omnibus one, the over -- the vetoes really give me no place to go, because the one ingredient that's totally lacking with them is a plan. There is no companion legislation, and there is no accompanying documentation or direction we're going to go. What it does do is it indicates that the County Executive has decided that every contract agency that the Legislature thought was important to people of Suffolk County is not, that there's not one that the taxpayers and residents of Suffolk County need the services of. Yet, there's so many other issues in this budget that frankly it leaves me very disheartened. Thank you.

D.P.O. POSTAL:

Legislator Caracappa.

LEG. CARACAPPA:

Thank you, Madam Chair. Though I was preempted in my line of questioning by the previous speakers. I will pretty much try and cut to the chase with my question, Fred, and just for putting it on the record. I'd ask you is omnibus one that was adopted by this Legislature and vetoed by the County Executive structurally in balance for the Year '03?

MR. POLLERT:

For 2003, it is a balanced Operating Budget with revenues equaling appropriations.

LEG. CARACAPPA:

Criticism brought yesterday and days prior was that some of the revenues that we have estimated for '03 in omnibus one will not be realized. Do you feel differently? Do you feel we can and will realize the revenues we have projected within omnibus one to the dollar?

MR. POLLERT:

For 2003, the major revenue adjustments were an increase in sales tax, which was a Budget Review Office recommendation. The subsidiary revenues for the deferred mental health will materialize because that's being flowed through the tax stabilization reserve fund. Wireless revenues for \$2 million was a County Executive initiative. For 2000 --

LEG. CARACAPPA:

Which started last year, I might add.

MR. POLLERT:

For 2002, which didn't materialize. Now that an RFP has been signed and a consultant has been retained, it should materialize for 2003. And the next largest one is a transfer from Fund 120, and there is cash in Fund 120 and it is a Legislative prerogative to be able to transfer those funds back. So all the major revenues should be able to be realized. Turnover savings, which was an appropriation reduction is under the control of the County Executive's Office, but that likewise should be able to be materialized. So for 2003, the revenues included in the budget and the appropriation reductions should be able to be realized.

LEG. CARACAPPA:

Thank you.

D.P.O. POSTAL:

Legislator Bishop.

LEG. CARACCIOLO:

pardon me, Dave.

LEG. BISHOP:

Yes.

LEG. CARACCIOLO:

Maxine, do you have me on the list?

D.P.O. POSTAL:

Yes. It's Legislator Bishop, Legislator Carpenter then Legislator Caracciolo.

LEG. BISHOP:

Then we vote?

D.P.O. POSTAL:

No. Then Legislator Foley.

LEG. BISHOP:

Then we vote.

D.P.O. POSTAL:

Then we vote unless somebody else wants to speak or ask questions. Okay. Will all Legislators please come to the auditorium, we're discussing an extremely important vote.

LEG. BISHOP:

We have ten.

D.P.O. POSTAL:

Well, you can speak, but, you know, I would just like to have more people here, not the minimal number of ten. But certainly you can begin.

LEG. BISHOP:

Thank you. At a time when our only working engine in our regional economy is consumer spending, it is bad policy to take \$60 million out of the hands of consumers and put it into the coffers of County government. I believe that premature over zealous taxation in anticipation of bad state acts is self defeating, and that's what the County Executive is asking us to engage in. The sales tax on clothing is highly regressive. It's worse -- it's more regressive than the property tax, more regressive than the income tax, more regressive than even general sales tax, because after all, whether you're wealthy or poor, you need to clothe your family.

We have engaged in the right policy over the years in provide that tax break to our citizenry. The County Executive says that he needs us to put that tax on, because otherwise, we will have a deficit next year. When we asked him yesterday to quantify that deficit, the only revenue that he took exception to that we are using is the \$14 and a half million social service loan

forgiveness from the state. That is a revenue that we've received for each of the last ten years, and it is a revenue that the Governor has promised to Suffolk County. So do the math. Even assuming that the County Executive is correct in that \$14 and a half million doesn't materialize. He wants to plug a \$14 and a half million hole with a \$60 million revenue. What does that leave? It leaves a surplus.

Legislator Lindsay was absolutely correct yesterday when he pointed out to the County Executive that we could take a dollar from the public now and a dollar next year and that would be two dollars. Or we could take two dollars from them next year, and if we took the two dollars next year, the public would be better off. But I contend that we will not have to take the two dollars from the public next year if the County Executive does his job properly. He now has one year, one year to use the influence of the County Executive of the largest suburban county in this state to influence the delegation in the State Senate, State Assembly and the Governor not to do bad acts to Suffolk County and to the other localities, but to balance their budget in Albany correctly. He has one year to restructure, reduce and innovate. When the Presiding Officer asked him about restructuring, the only think that he cited was a potential attrition policy.

But I think we've all seen around this horseshoe the memorandum from Budget Review and what I call the Caracciolo chart, which shows that ultimately the early retirement program is not going to yield nearly the savings that he has in mind. He has a year to get that in shape. He has a year with which to correct the poor management that has led to the wasting of tens of millions of dollars; \$20 million in Sheriff's overtime, only one third of the way towards civilianization in the Police Department after a decade, a health insurance deficit that \$10 million and growing, \$9 million spent on housing the homeless in disgusting motels, and he has a year to enact the revenue raising programs that will generate money as in the airport, as in the wireless fees as well.

Our mission, both legal and morale, is to send him a balanced budget that provides the necessary resource for this County's resources. Our omnibus does that. We have met the mission, and we are not overtaxing the public, and that's the right thing to do. So we should override the veto.

D.P.O. POSTAL:

Legislator Carpenter.

LEG. CARPENTER:

Thank you. Legislator Bishop just spoke about some things that he felt that the County Executive should do. I would rather look at us doing a lot of this together. I think yesterday's appearance at this body by the County Executive in my mind was a positive sign that he is willing to work hand in hand with us. And the only way we are going to get that kind of relief, the only way we are going to make an impact on the state with mandate relief is if we join forces and work very, very cooperatively with the Executive Branch of Government. We have done it in the past. We did it in last year's budget process. And I do really feel we can do it again and we must do it again.

In his veto message, the County Executive -- I can imagine that he probably has a sense of frustration in not wanting his initiative to have us reconsider the exemption on the tax on clothing, so I'm sure there was a frustration level on his part, and he stated that perhaps this will undo all of the good work that we have accomplished. I disagree with that. I don't think our actions today will undo any of the good work we've done. However, we -- again, and I'm going to emphasize this again, we have to work together. And I do feel confident that we can do it. I agree that we need a strong reoccurring revenue sources, as he says in his veto message.

And when he refers to the Budget Review's statement in their report of the Operating Budget, he emphasized that this initiative, meaning reinstating the sales tax on clothing, should be carefully considered. And I don't want anyone to think that it wasn't carefully considered. The Presiding Officer very carefully outlined the thousands of hours that were spent during this budget process between public hearings and the Budget Review Office and Legislators really rolling up their sleeves and working very hard on this whole budget process. And we did consider it very, very carefully. But as has been said time and again, this is not the time to be taking money of people's pockets.

The economy is fragile, and I do think we need to demonstrate on the part of this body and on the part of Suffolk County that we have confidence in the economy, that we have confidence in our residents, and that we will come out of this. But, again, we'll come out of this only if we work together, and I have confidence that we can. Thank you.

D.P.O. POSTAL:

Legislator Caracciolo.

LEG. CARACCILO:

Thank you, Madam Chair. I'd like to begin by just reflecting on what transpired here yesterday. And the analogy that's been portrayed purposely false to the media, that of this legislative body overrides the County Executive's veto, that we will be embarking on a course, to use the maritime metaphor, of colliding with a perfect storm. It's interesting to note that that metaphor is not original, at least not in terms of it being devised by somebody in Suffolk County. It actually comes out of a New York Time's article of November 11th, wherein the Times reporter, Joyce Purnick, who writes in the Metro Section, reflects upon a conversation she had with a recently retired staffer of the New York State Senate Finance Committee, an individual by the name of Abraham {Lackmann} who retired from state government right around the end of October.

And in the article, they talk about this metaphor of the perfect storm. And to quote Mr. Abraham, he says the metaphor to the perfect storm is there is an incredibly strong storm that comes out of no where and comes with such enormous build up of speed that it's going to hit state government, New York City, county governments and mass transit all at once. Well, first, let's stop and reflect.

The slow down in the national, state and local economy is is not happening all at once. It began with the tech bubble on Wall Street in March of 2000. It has not affected like it has affected New York City and the state with respect to revenues, because unlike the state, our revenues have grown. We have not seen a precipitous drop in county revenues. Our sales taxes are up. And this speaks to the issue that so many of you have spoken to eloquently over the last two days, and that's a defense of the sales tax on clothing.

Now let me refer to another article. This one in Long Island Business, is a front page story entitled, "Shopping, Spending and Succeeding." The author is the president of the Long Island Association, and he speaks about the difference between this slow down in the local economy and what transpired a decade ago. Because we heard that analogy yesterday as well, and there's no comparison. But let me quote from this article. First, I think it's interesting to note that despite all of these declines in the national, state and local economy, the average household income for the bi-county region \$68,351 measured on the 2000 Census. We note from recent articles in Newsday, salaries, pay perks, rose in 2001, and this was an article that appeared in Newsday just a couple of days ago. It goes onto talk about the retail sector of the local economy. It accounts for over 10% of the bi-county economy. It goes onto say that there are

150,000 people employed in the retail sector. And their income, their cumulative incomes amount to \$3 billion, and we all know what state payroll taxes are like, especially if you're in this category of sixty-eight thousand dollars.

If we were not to override this veto, we take a step back and essentially wind up with a budget that requires us to go back for not a second time, but a third time and consider reimposition on the sales tax on clothing. I think everyone has made it perfectly clear, there is no inclination in this Legislative chamber to do that. It may have to be something that we look at at a later date. There are other options. Other counties have done tobacco securitization. I for one will not support that, because while those who were here yesterday represent that's not a one shot, we know from our Budget Review Office that that's a one shot with interest. So that's not really an option. So what are the options?

Going back to Mr. Abraham and the article in the Times. He says for the state government what they have to do -- what the leaders in Albany have to do is essentially raise revenues. We all know what that means. Fasten your seatbelts, that means the state's probably going to increase taxes. We know the Mayor of the City of New York is talking about reimposing the tax other the -- commuter tax, rather, or cut spending. Now, I'm not completely happy with this omnibus, nor was I at all happy with the proposed budget. Neither from my perspective, as all of you know, because I've talked about it for the last two months in our respective conferences and caucuses with Democrats and Republicans. I would have like to have seen more County cuts. In fact, I sponsored over 20 resolutions to cut County spending, much of which many of you could not find yourselves agreeing with.

That said, if you don't override the County Executive's veto, think of what the implications are. All of the contract agencies that provide cost efficient services for County residents all wind up in a category of 10% cuts. Cornell Cooperative Extension sees the complete elimination of its Marine Science Program, an overall 21% in budget cuts. Is that what you stand for? Is that what you want to go back and tell your constituents you're for? I don't think so. It was very interesting, I didn't know where my distinguished colleague to my left, George, earlier was going earlier, Mr. Guldi, with his dialog with the Budget Review Office, but it is interesting to note that when he got to the end of that discussion, that the alternative is, if you sustain, that means if you go and you agree with the County Executive, and you don't want to see the budget amendments before us overridden, then you are in effect supporting a 60% property tax increase. That's what George's point was. Now, he got there in a very circuitous way, but he

got there.

And I hope those of you in the media report that, because the alternative to omnibus is, as Budget Review pointed out, in the absence of action taken in the affirmative on the repealing the sales tax on clothing, it free floats to the property tax. That means automatically County taxpayers without a vote of this Legislature will see a 60% increase in their property taxes. That's unconscionable, that is not acceptable. I urge my colleagues to support the override of the omnibus.

P.O. TONNA:

Legislator Foley.

LEG. FOLEY:

Thank you, Mr. Chairman. As has been mentioned already, we have reached a point where we have an omnibus that is balanced, that revenues match expenses. So, in effect, if we had passed this omni -- by approving -- by overriding this veto, if we had additionally also agreed to the sales tax, then we would have been in a situation where we have a very large surplus. And yesterday, when the issue was raised by Legislator Fisher and by others as to what the County Executive would do with these large surpluses that would be developed through the passage of the quarter cent sales -- through the reimposition of the sales tax on clothing and shoes, we didn't get a very clear answer from the County Executive as to what he would do with that 60 plus million dollars in surplus that would be created.

And the reason that would be over a \$60 million surplus is because this omnibus is a balanced omnibus for 2003. So if it's balanced and then you also add as he wanted to add the reimposition of the sales tax, which would garner us about \$58 million, you can ask the question anywhere from 58 to 60 to \$65 million of additional monies surplus would flow either to fund balance or to the tax stabilization reserve fund. So when the question was raised by a number of Legislators respectfully to the County Executive as to what were his programmatic and budgetary outline or plan, as Legislator Guldi mentions, what would be the plan of how to utilize these surplus monies, there was not a clear answer given, not a clear answer given. And as others have mentioned yesterday and part of our suspicions is this was an effort to cushion the budget, to cushion the budget next year so that in election year he can offer several months before Election Day either a tax decrease or no tax increase.

But how is he going to achieve that? He was going to achieve that by gutting, by gutting programs that we in this Legislature in a bipartisan fashion over the years have crafted together in order to serve this County. He was ready, willing and able and did propose to gut our health centers, to gut a number of other human service organizations. And while we may not have restored all the cuts that were proposed by the County Executive concerning some substance abuse and mental health and health center programs, the fact of the matter is we were able to restore a great majority of them, and restore a great majority of them in a very conservative budgetary fashion so that revenues match expenses.

We were the ones to make sure that there was not this in essence a slush fund that would be created by the reimpositions of the sales tax. We were made sure that we were going to put together a budget that was careful in how we allocated those dollars, to make sure that there wasn't tens of millions of dollars that would be used by the County Executive or by any of us in some other fashion. So the way we approached this, and there's this notion out there that somehow the partisanship is rearing its ugly head again. Well, I don't think there's partisanship on the Legislature, because if you look at the cosponsorship in support of omnibus one, there was broad bipartisan support.

No, where there is tension and where there is some creative tension is in great tradition of this Legislature; the tension between the Executive Branch and this County Legislature. Legislator Carpenter mentioned before the need to have -- to work together, to work as a team with the County Executive. Well, I would humbly submit that's a two way street. That's a two way street, Ladies and Gentlemen. You cannot come before us like you did yesterday and give us the appearance of being diplomatic and give the appearance of wanting to work with us, yet behind the scenes speak to Legislators in the most insulting of ways. That's not the way county government is supposed to work. So to get back to the major point, again for those, particularly the media, who are here, this is a balanced budget where the revenues match the expenses. We're able to do this without -- at least for another year without raising the sales tax. We're thereby preventing a huge surplus from occurring that we all know, those of us who have been practicing the art of politics and government for a number of years, we all know what the County Executive is going to do with that.

(SUBSTITUTION OF STENOGRAPHER - ALISON MAHONEY)

LEG. FOLEY:

Now, he's not the only County Executive who wants to cushion a budget in an election year. Past County Executives do all different political backgrounds did the same thing. So again, this is not a partisan jibe at that particular County Executive. That's the reality of the situation where we have the County Executive that not only wanted to create huge surpluses for his own account, but also is willing to hurt the public by slashing funding and slashing programs for those who need them most and programs that we as Legislators on a bipartisan basis over the decades have pieced together year by year, and he was ready and willing to just cut those programs.

So I'm very proud of this particular Omnibus. I think it's something that we all worked for. It was a very painful and difficult year. There's no doubt -- I will end with this, Mr. Chairman, there's no doubt that the state mandates are hurting this county and other counties. But we can't use the specter of what the state's going to do next year as a reason to put huge surpluses within this budget. We're making sure this is a lean budget that meets the purposes of our County mission, at the same time prevents a huge slush fund that could be used for a variety of what I will call election year gimmickry. Thank you, Mr. Chairman.

P.O. TONNA:

Okay. Legislator Binder. And just so that people know, we're -- we want to get this thing done by 12:30 if we can, because we have to set the tax levy. Thank you. Legislator Binder.

LEG. BINDER:

Thank you. I always find it funny when I hear this is not partisan, this is not partisan, but it's election year gimmickry, slush funds, the County Executive just wanted to be able to lower taxes next year just before his election. But I hear it from the opposition party, not from the party of the County Executive that we're talking about. I don't -- I haven't heard Legislators -- doesn't seem to me -- from the County Executive's party saying the same thing. I think generally the County Executive took what I think is an impolitic stand in coming to the Legislature and focusing on a special meeting on raising taxes. That's not exactly politics going into a year where he's running for office. That's not why -- you're thinking that maybe two months before he can have a tax decrease, he doesn't think there's a tax decrease coming, he thinks that we're going to barely be treading water.

So I think to accuse the County Executive of doing that is ridiculous, of creating a slush fund is maybe even more ridiculous, because the County Executive wanted to politically hurt himself by raising taxes to put money in, and he said even last night that he would then veto other what he

called one shots and by taking out the one shots, it would be the same amount of money as we put in.

So if we think the amount we put in gives him a slush fund, it's about the same. Or -- or what we were saying here is that the slush fund is because we don't really think that the revenues we put in would materialize. So since the others would because we think maybe that the sales tax would and that -- he wanted the sales tax instead of our revenues, that would create a slush fund. So I think it's unfortunate, and I think it -- it smacks of politics that's going on. And I'm hearing the politics.

I also heard it said that at least for another year, we're doing this without raising sales taxes. Well, I mean, I'm hearing hedging here, at least for another year, maybe for right now. I heard another legislator say well, maybe we're going to have to do this next year, maybe we have to increase the sales tax. Now, I would hope that we're not going to be looking at increasing the sales tax. I think the arguments that were given, Legislator Carpenter gave them and discussed them, talks about macro economics. The fact is if you take money out of the economy, you take it from people who spend it, there's a multiplier effect and it hurts, it hurts a lot more than what was said with the securitization which is if you take the money up front and then you have to do it with interest. Well, the interest that you have to pay on doing it through a sales tax or any kind of tax is through the multiplier effect, you lose a lot more through the economy by taking money out of the economy than you would ever lose in a securitization program.

Now, I would generally not want to do securitization, but the thing I think is unfortunate is that we didn't have that option last night. The only thing we were given is raise taxes or nothing. That's the only revenue. There should have been an alternative, because the alternative was discussed by the County Executive, it was discussed by Legislators in caucus and, of course, rejected out of hand by a lot of Legislators.

But if we sit and think about it, we need real revenues, revenues we absolutely know are coming, I can say with the sales tax, the \$58 million I don't think would ever materialize because of how much as was said yesterday comes in that we don't realize because we draw customers to Suffolk County who are buying those things that are taxed. So we're making money. I can never believe the 58 million dollars. I think it would be way lower, and I think is a speculative revenue. But the revenue that would be absolute would be securitization, a multi-year program we were handed in the past.

It's painful because you have to take a haircut, even you Legislator Tonna. You didn't get it. Haircut, sorry. You have to take a haircut. You have to take a discount, so you take money up front, you lose something. There's no doubt. But we would have five years to wean ourselves off of it. We would know when the end comes, and we'd be able to plan for it, and we would hope that in the five years or so -- because it could be different, it could be six years, seven years, could be even less, whatever the number is, we would hope that the economy would turn around. We give enough time to get back on track with the economy.

The most important thing is we need the revenue, we need absolute non speculative revenue. And the only one I know of is securitization. And I in a sense disagree with Legislator Guldi in that -- and Legislator Caracciolo who brought that up -- that automatically it flows to taxes, sales taxes, if you vote to sustain the County Executive's position, our property taxes. And the reason I disagree with that is because this Legislature can find those revenues. Right now we could put together, we could still do it, we could -- we would need 14 votes, but I think this Legislature could securitize before the end of year, before the tax warrant was set, we can securitize, no, we have the income, and we can replace some of the revenues that we have with that.

I would think that's what we should have done. I have a concern about this budget. I think this budget is going to put us in a place going into 2004 to make revenues impossible to find to put together the next budget. It's going to put us in a very bad place. And I think some time during the year, this Legislature in an election year for all of us and the County Executive, are going to have to sit down and say we need revenues from somewhere. We're going to be having that discussion. And probably early in the year, I might just put out there the securitization just so we can engage in that discussion early, because we should have that money, not as slush fund, but as money that we could rely ongoing into 2004 to protect the people of Suffolk County.

And that's why I don't -- I don't support the budget, but I didn't support the County Executive's budget either. I didn't support the tax increase. Again, his tax increase is as depressing on the economy as increasing sales tax, and that's also a problem. I think the only alternative -- the only revenue as painful as it is to take a discount on that money that we know -- and it's not all the money, it's partial securitization of the revenue stream from the tobacco -- the tobacco settlement, I think that's the only place we're going to be able to go to protect the people of Suffolk, and I hope that we're going to have the courage to do that early next year.

P.O. TONNA:

Thank you, Legislator Binder. Legislator Fields. Okay. Thank you, Legislator Fields. Legislator Lindsay.

LEGISLATOR LINDSAY:

I was just reading the County Executive's veto message, and a lot of it is what he said before us yesterday, and I disagreed with him yesterday. And along the same lines, particularly he says in his veto message the failure to rescind the clothing exemption now will undo all of the good work we have accomplished. I don't agree with that. I didn't agree with him yesterday, I don't agree with him today. This Legislature had the courage to raise taxes three times last year when the need was clearly made that we needed the increase revenue. I don't think this year that case has been made.

I don't believe that it's been clear-cut to me anyway that we need to raise taxes this year. I think there is probably a good case to be made that maybe next year if things go like the County Executive envisions, yeah, we might have a shortfall next year. But again, let's deal with next year. Let's deal with that problem when we have to deal with that problem. Let's not rise the taxes of our citizens before we need to.

The other thing that I did want to mention is -- I think it was mentioned that we should work together with the County Executive and that we have in the past, and it's unfortunate that it has come to this impasse with this large stack of vetoes. And I'm all for that, but not at the cost of the taxpayers, not at the cost of raising taxes when we don't have to raise taxes. And I look forward to that cooperative effort coming back between the Executive and the Legislative Branch. And I think, you know, there's a responsibility certainly on the County Executive to be a better manager, that was pointed out at this horseshoe, but there's also a responsibility on us as Legislators. And the responsibility is over the next year, there's no doubt that this is a tight budget without these tax increases that we have to be more responsible as far as curtailing the size of government.

Now, we can't regulate everything because every time we do that, there's a cost to this local government. And I do agree that the relationship between the Executive and Legislative Branch could improve, and I look forward to it coming back. Thank you.

P.O. TONNA:

Thank you very much. Legislator Fields, I know you were out of the room, so we're going to --

LEG. FIELDS:

They said what I needed to say.

P.O. TONNA:

Very good.

LEG. CARACCIOLO:

Mr. Chairman, just finally --

P.O. TONNA:

No. No. I have two more people.

LEG. CARACCIOLO:

Just before we get to a vote, I would like Budget Review if they could prepare --

P.O. TONNA:

I have two more people to talk.

LEG. CARACCIOLO:

They may need a few minutes to do this. Prepare and put on the record what the tax impacts of omnibus is town by town, because there's a lot of misinformation out there. The dollar amounts.

P.O. TONNA:

Okay. Legislator Crecca.

LEG. BISHOP:

they are going to need more than a minute.

LEG. CRECCA:

Most of what I wanted to say has been said already, and I don't want to be labor things. But just at few very quick points. First of all, Legislator Binder said he doesn't support the Omnibus,

doesn't support the County Exec, you know, and I would say you have to do something as a Legislator, and most of us have. It's easy to sit there and critique, but you have to come up with an alternative plan. And that's what we have done here with the Omnibus. Understand, those -- if anyone is in a position to vote to sustain the vetoes, they should keep in mind that what they're doing is saying then I support bringing back or the lifting of the sales tax exemption on clothing. Because they're going to have to justify and come up with that alternative revenue sources, okay? Or they're going to have to raise property taxes or something in order to meet the revenues that they're sustaining a veto on.

Legislator Caracciolo brought up a very good point too about the economic impact. I have heard throughout the year how we have shrinking sales tax revenues. How we -- the picture is very bleak. And forgetting about the \$29 million increase that we got in the third quarter that -- I should say -- all of that wasn't in the third quarter, but the extra hit we got in the third quarter, even if you take that out of the equation, our sales tax revenues exceeded our estimates from the year before. And even during the budget process and when the media reported on it throughout, again, I heard reports about sales tax revenue deficits for 2002. Well, the numbers didn't pan out that way, we had a huge surplus. I hope that optimism, and I hope that economic trend continues that Suffolk County does edge out other counties in the state and the national trend, which is a downturn in the economy.

But we're not going to do that by bringing back a sales tax on clothing. We heard the economic impact yesterday. We heard about literally the seven million people that are coming to Tanger from outside the County, and those don't include our own residents. How they spend -- how much they spend and how much they spend on taxable items. And I think a lot of -- I think that we gained dollars in our pockets in revenues in our pockets. And I think a big part of the reason we have seen these good numbers in sales tax revenues is because of the exemption of clothing and the dollars people spend when they come to this County to spend money.

And Legislator Bishop and Legislator Lindsay are also correct in that if we -- if we start having consumers pay more taxes in this County, whether it be property taxes or sales tax on clothing, you stifle economic growth. And it's a basic concept, it's not a Republican concept, it's not a Democrat concept. Keep money in consumer's pockets and they will spend it. And when they spend it, they help the overall economy. That's what we're trying to do here. I think it is a challenge.

It's a tougher budget than the County Exec has had to manage in the past. But the ball is in his court now. And we ask him to manage this budget and to ensure that the revenues source that we have estimated are acted upon to be brought in for this County. And I can say as Chairman of Finance Committee, if I am Chairman of Finance Committee next year, myself and I think every member of the Legislature has a duty to monitor the budget more closely throughout the year and to watch our spending and to watch how our revenues are coming in and to micromanage a little bit throughout next year.

P.O. TONNA:

Great. Legislator Fisher.

LEG. FISHER:

Thank you, Mr. Chairman. One of the most disconcerting elements of the budget process this year to me has been the speculations on the part of County Executive which have had a very negative spin that have been portrayed in the media as -- to move away from the metaphor that he's used the ship of state going into the perfect storm, I would characterize it more as chicken little saying the sky is falling, because Mr. Gaffney as recorded in the media had let it be known that our bond rating is in clear and present danger. And I think that that's very speculative, and I think it's very dangerous to set that kind of negative tone for the people of the County of Suffolk.

He refers to the one shots, and in questioning yesterday, one of the one shots that I asked him about was the -- he refers to the \$29 million sales tax revenue that we had not anticipated, the County Executive refers to that as a one-shot. Budget Review, Fred, what I asked the County Executive about this yesterday, I said we use that -- that is real money, Budget Review has certified that that is real money, it is part of balancing the budget. He said, but you can't use that to balance the budget, because that goes back to 2002. Can you explain that to me?

MR. POLLERT:

The \$29 million increase in the sales tax estimate was based upon a special report that was done by the Budget Review Office, which was also included in our Operating Budget Report. The \$29 million increase of sales tax was forecasted to be \$23.5 million increase for 2002 and a \$5.5 million increase for 2003. In total, the forecast by the Budget Review Office is a forecast that I am secure with that we will have the additional revenues in 2002 and 2003. The concern I believe that the County Executive had is that of the \$29 million, approximately \$5.5 million is

reoccurring, would flow into 2003, flow into 2004. The bulk of the increase, roughly \$23 million, is associated with current year revenue estimates based upon the first, second, third and fourth quarters of 2002.

For 2003, that large increase is not included in the base. We used a very conservative forecasting methodology. We didn't increase the base by \$23 million in forecast, a three and a half percent increase on that increase base. We assume that the bulk of the increase was associated with adjustments dealing with September 11th of last year. So the concern that the County Executive's Office has is that for 2004 it's not a reoccurring revenue of another \$29 million --

LEG. FISHER:

But it's legitimate in the 2003 budget.

MR. POLLERT:

Absolutely.

LEG. FISHER:

And that's the budget we're talking about balancing.

MR. POLLERT:

That is correct. So I'm confident that our estimate is reasonable for 2003.

LEG. FISHER:

So it's structurally sound.

MR. POLLERT:

That's correct.

LEG. FISHER:

In the 2003 budget, and there's no problem. Okay.

MR. POLLERT:

That's correct. Likewise, the County Executive's consultant had done a report which also forecasts that there was going to be increase in the sales tax. It wasn't going to be as large a

forecast by the Budget Review Office, but he had an increase in the revenues of about \$13 million which is your questions yesterday to the County Executive, what would happen to the \$13 million or \$29 million if you want back to the original sales tax forecast.

LEG. FISHER:

Correct. I do want to go back to what Legislator Crecca just said. He's the first person to have used the term optimism. And I think that although we are not Pollyanna in our approach in our Omnibus, there has to be some degree of optimism and faith in our process and positive outlook. And certainly our Omnibus is conservative, it's taking all of the revenue into account, it's restoring our contract agencies, who by the way, had come before us during our hearings and one after another, have told us the kind of cost savings, cost benefits, involved in supporting these contract agencies. So with an optimistic positive constructive spirit, we have moved forward. And I believe that in that spirit, we should override the vetoes that serve to have a negative spin on the face of our economy.

LEG. CARACAPPA:

Let's go.

LEG. CARPENTER:

Move the question.

P.O. TONNA:

Okay. Just before we move the question. I would just like to make one point, and it's a quick one. The County Executive brings over a budget. He cut a lot of programs that this Legislature, the vast majority of Legislators said are easy essential, are absolutely essential to what we do as a County. It's our *raison detre*, and that's pronounced correctly. Our *raison detre*, to make sure that we can take care of poor and vulnerable people, that we take care of people who need health centers, that we take care of people through contract agencies, by the way, which are a much cheaper delivery of vital services than they would be if we had public employees doing that in-house. Contract agencies aren't, you know, a necessary evil. Contract agencies aren't something that you just say, you know, if we have a little extra money let's throw some money to these agencies. Contract agencies, the partnership that we have with many of these contract agencies is a vital part of us delivering what a County is supposed to by its own mission. Public works, public health, public safety and public assistance.

Finally, the legislative process is a collaborative process. We have a history here of doing it crossing party lines and being able to say, hey, when it comes down to the idea of taking care of and being good stewards of the services that we're supposed to provide, we have to do it in collaboration. I don't think there is any Legislator who has been here for the nine years that I have been here, every single budget that I have voted on, which has been an omnibus budget, by the way, I have said there are some things that I like about it, there are some things that I don't like about it. There are some things that if I was a benevolent dictator, I would do a little differently. But that's not the Legislative process.

The County Executive has the right to veto. He's made it very, very clear that he wanted only one thing. He wanted the budget that he submitted over to us with the revenues that he projected. All I can say is now we have our final decision to make. The Executive Branch now after we cast this vote and set levy and do everything else that we do through our budgetary actions is now mandated to carry out the policy that this Legislature has set. And I hope that in the spirit of cooperation and all the lovely things the County Executive said at the beginning, working together and everything else, that he does that.

I want to bring the attention -- the last thing and Legislator Crecca has made mention of this, that we in our -- in the 35th and 36th resolve clause of our Omnibus, we said that there needs to be oversight reporting. We know that this is going to be a tough budget. We're asking our County Executive to manage that budget properly, and we're asking this Legislature and its Committee Chairs and its committee members to make sure that they take very seriously the oversight reporting that is going to be required and asked of the County Executive and his staff and his commissioners and everybody else to make sure that they keep us up to date, month by month, quarter by quarter with what is going on with the County. And so we're going to hold him to that. I want to thank the Budget Review Office, and I want to thank my colleagues, who worked so very hard at this process. Thank you very much. Now, let the voting begin.

Legislator -- no. I can tell you there would be a lot of costs that I would have cut. Go ahead, Legislator Caracciolo.

LEG. CARACCILO:

Finally, Mr. Chairman, I would like to thank the Budget Review Office once again on behalf of the entire Legislature for the countless hours and dedication they've provided in terms of analysis and review and research and -- which culminates with the sheet that's just been handed out, so that when it's distributed to the media, it makes it eminently clear what this Omnibus actually

accomplishes. As opposed to a 60% property tax increase, we're looking at an increase in three of the four towns that I represent on the east end, two-tenths of a 1% increase in the Town of Riverhead or \$8, \$8. Keep in mind, on the east end, the County property taxes are 1% of an average homeowner's tax bill, 1%.

In the Town of Shelter Island, it's four-tenths of a 1% increase or 16 dollars. In the Town of Southold, it's one-tenth of 1% or six dollar county tax increase. I would submit to property owners that when they get to their tax bills in December, to take a look at there increases in town taxes and school taxes and put this entire matter of the action taken here today into perspective.

P.O. TONNA:

Thank you very much. There is a motion and a second for Omnibus Number 963 in mandated part. All in favor? Opposed -- oh, no. Let's do this -- this is to override. Okay. So a yes vote means we're overriding, right, that's how it works? A no vote means we're sustaining. Roll call.

ROLL WAS CALLED BY HENRY BARTON - CLERK OF THE LEGISLATURE

LEG. TONNA:

Yes.

D.P.O. POSTAL:

Yes.

LEG. COOPER:

Yes.

LEG. BINDER:

Pass.

LEG. BISHOP:

Yes, to override.

LEG. NOWICK:

Yes.

LEG. CRECCA:

Yes.

LEG. CARPENTER:

Yes.

LEG. ALDEN:

Abstain.

LEG. FIELDS:

Yes.

LEGISLATOR LINDSAY:

Yes.

LEG. FOLEY:

Yes.

LEG. HALEY:

No.

LEG. FISHER:

Yes.

LEG. CARACAPPA:

Yes.

LEG. TOWLE:

No to override.

LEG. GULDI:

No.

LEG. CARACCIOLO:

Yes.

LEG. BINDER:

No. You called it the wrong way.

MR. BARTON:

You are correct. It's November. Thank you. 13.

P.O. TONNA:

Thank you very much. Okay. Now we're going to make a motion -- there is a motion and a second to override the Omnibus discretionary, which is 964. Motion by myself, seconded by Legislator Postal. Roll call.

ROLL WAS CALLED BY HENRY BARTON - CLERK OF THE LEGISLATURE

P.O. TONNA:

Yes.

D.P.O. POSTAL:

Yes.

LEG. CARACCIOLO:

Yes.

LEG. GULDI:

No.

LEG. TOWLE:

No.

LEG. CARACAPPA:

Yes.

LEG. FISHER:

Yes.

LEG. HALEY:

No.

LEG. FOLEY:

Yes.

LEG. LINDSAY:

Yes.

LEG. FIELDS:

Yes.

LEG. ALDEN:

Abstain.

LEG. CARPENTER:

Yes.

LEG. CRECCA:

Yes.

LEG. NOWICK:

Yes.

LEG. BISHOP:

Yes.

LEG. BINDER:

No.

LEG. COOPER:

Yes.

MR. BARTON:

13.

P.O. TONNA:

Great. Okay. Now we're going to go to stand-alones. Resolution 965 is a resolution by Legislator Caracciolo. Do you have a motion?

LEG. BISHOP:

Which is this one?

P.O. TONNA:

This is Operating Budget - we're just going right down the list. 965, this is stand-alone on the desk, computer, cabinets. Do you want to make a motion?

LEG. CARACCIOLO:

Yes to override. Yes.

P.O. TONNA:

Seconded by myself. All in favor? Opposed?

LEG. BISHOP:

On the motion.

LEG. FISHER:

On the motion. It's -- Budget Review, I have a question. There are two veto messages, Fred, that refer to the reason being that we're moving money from Operating to Capital Budget or -- and than we can't because of the amount of the expenditures.

MR. POLLERT:

No. What we were doing is the funds were taken out of the budget and transferred to the pay-as-you-go account. So what happened is the County Legislature with this action reduced appropriations in the Department of Audit and Control and transferred those savings to the pay-as-you-go account.

LEG. FISHER:

Not to the capital account.

LEG. BISHOP:

Which is still in the Operating Budget. So the veto message is wrong.

MR. POLLERT:

It is to avoid debt service costs and capitalizing items.

LEG. FISHER:

So the veto message says, "and moves the funding to the transfer to capital account," you are saying that's incorrect.

MR. POLLERT:

That is correct, but it's a pay-as-you-go account. It's the account that the --

LEG. BISHOP:

The incorrect part of the veto message is where it says it should remain in the Operating Budget. It is remaining in the Operating Budget.

P.O. TONNA:

Okay. There is a motion and a second. All in favor? Opposed?

LEG. TOWLE:

Opposed.

MR. BARTON:

17, one opposed.

P.O. TONNA:

Okay. Resolution Number 966 by Legislator Caracciolo -- motion by Legislator Caracciolo. Just follow - you have four more left, guys. Budget Resolution Five. Motion by Legislator Caracciolo, seconded by Legislator Caracappa.

LEG. BINDER:

On the motion.

LEG. FOLEY:

On the motion. Can we hear from Budget Review Office?

P.O. TONNA:

It's a replacement of computer equipment no longer covered by warranty.

MR. SABATINO:

Just like the last bill. It cuts appropriations by 34,000 and places it in the pay-as-you-go account in the Operating Budget. It's identical in concept, different in dollar amount.

P.O. TONNA:

Okay. All in favor? Opposed?

LEG. TOWLE:

Opposed.

MR. BARTON:

17-1.

P.O. TONNA:

Great. 974, Legislator Cooper made a motion, seconded by myself. This is double environmental fees. All in favor? Opposed?

LEG. TOWLE:

Opposed.

LEG. CARACAPPA:

This one I oppose.

LEG. HALEY:

Opposed.

P.O. TONNA:

No. No whose opposed -- roll call.

LEG. FOLEY:

On the motion. Before we get the roll call, if you carefully read the override message --

LEG. BISHOP:

It makes no sense.

LEG. FISHER:

It's incredible, isn't it?

LEG. FOLEY:

It really is incredible. And I think we should read this for the record, "this 90% increase, which effectively doubles the environmental fines should help to encourage compliance and therefore reduce the number of sanitary code infractions, thus causing a probable shortfall in projected revenues."

LEG. FISHER:

Isn't that a good thing?

LEG. FOLEY:

So here's an example where we're trying to allocate additional dollars, but if we don't reach those additional dollars, there's an equally important public policy that will be realized, which is to reduce the number of infractions. So both from a public health point of view, speaking as the Chairman of Health, but also from the point of view of --

P.O. TONNA:

It's got to be a typo.

LEG. FOLEY:

It's not a typo, it's symptomatic of what the whole problem has been since the beginning of this budgetary --

P.O. TONNA:

No. No, it isn't. It's got to be typo.

LEG. BISHOP:

It's not.

LEG. CARACAPPA:

Let's go.

P.O. TONNA:

All right. Okay. A little chink in the armor. Anyway, can we have a roll call?

ROLL WAS CALLED BY HENRY BARTON - CLERK OF THE LEGISLATURE

LEG. COOPER:

Yes.

LEG. BISHOP:

So we levy fines to raise revenues, not to encourage compliance.

P.O. TONNA:

Yes.

LEG. CARACCIOLO:

Yes.

LEG. GULDI:

Yes.

LEG. TOWLE:

No.

LEG. CARACAPPA:

No.

LEG. FISHER:

Yes.

LEG. HALEY:

No.

LEG. FOLEY:

Yes.

LEGISLATOR LINDSAY:

Yes.

LEG. FIELDS:

Yes.

LEG. ALDEN:

Abstain.

LEG. CARPENTER:

Abstain.

LEG. CRECCA:

Abstain.

LEG. NOWICK:

Yes.

LEG. BISHOP:

Yes.

LEG. BINDER:

Yes.

D.P.O. POSTAL:

Yes.

MR. BARTON:

12.

P.O. TONNA:

Okay. On to the next. This is Resolution Number 975. Motion by myself, seconded by Legislator Caracappa.

D.P.O. POSTAL:

On the motion.

P.O. TONNA:

On the motion.

D.P.O. POSTAL:

I do have sympathy for both Riverhead and Nissequogue, however, I am concerned because with having adopted the Omnibus One Resolution, we made a certain assumption about the amount of spending that we were approving and the amount of revenue that we anticipated receiving. And if we were now to pay this revenue sharing, it would change the picture. So I just am very concerned about that.

We did receive a letter from the Village of Nissequogue, and the letter from Nissequogue talks about the future, if I read it correctly. They apologized for not complying with the deadline, but they're saying that in the future they will make a point of complying. You know, I think that certainly neither of those municipalities should be permanently denied revenue sharing, but I think that approving the revenue sharing for them for 2003 would make a change in the budget. And I think anyone who votes to override this should want to know what the impact is on, for example, the tax levy in the police district.

LEG. BINDER:

You mean --

P.O. TONNA:

You mean to sustain it.

D.P.O. POSTAL:

I'm sorry. To sustain the veto.

P.O. TONNA:

If you sustain the veto, Fred, basically it adds the gross amount, right, the 533, whatever? \$1.1 million to the police district, right, over two years?

MR. POLLERT:

No. It would be over next year, because it would be next year's property tax warrant, which is going to be increased.

P.O. TONNA:

Which would increase the police district --

MR. POLLERT:

By \$1.1 million. The County Executive has --

P.O. TONNA:

How much percentage? Approximately?

MR. POLLERT:

Like point 3%.

P.O. TONNA:

All right. All right. Okay. Thank you.

LEG. NOWICK:

On the motion.

P.O. TONNA:

I have a list. Legislator Fisher, Lindsay, Alden. By the way, we're not getting a lunch, okay?

LEG. CRECCA:

No, keep going.

LEG. FISHER:

Mr. Chairman, my question was answered. It was how it would impact the budget.

P.O. TONNA:

Great. Lindsay.

LEG. LINDSAY:

Yeah. I was very appreciative that the Supervisor from Riverhead appeared before us this morning. And I think he made a very humble appeal to, you know, fund this sharing that we have with the local towns and villages that have their own police force. And then I read his letter to us dated November 14th, and really should never have sent the letter. It says, "It's unfortunate that no one contacted my office prior to this vote." I mean, it isn't -- Clerk stated that had he has attempted to make contact with the town and the village on multiple occasions, and they just blew us away.

I mean, what would happen to the whole system if every other police department that we fund through the sales tax revenue did the same thing? Well, there would be total chaos for one thing. You know, I appreciate Legislator Caracciolo's efforts to try and get this funding for a town that he represents, but I just don't think that they get the message, that we should have researched out personally for the Supervisor before we took this action. From my understanding, I didn't think we had a choice. I thought it was a violation of a County statute that they have to file these papers. They don't get funded, and they don't get funded into the future, which I think is a little hash and maybe should be looked at. But I don't really see how we have a choice but to override the County Executive's veto on this.

P.O. TONNA:

Okay. Great. Legislator Fisher, I passed over you.

LEG. FISHER:

No. Thank you. I had ceded my time, but I would like to reclaim it, because I want it to be very clear that my position with regards to this revenue sharing is not at all based on any punitive sense that they should have done it and they didn't obey the law, but rather that I think it would turn our budget process on its ear to try to put \$1.2 million back into the budget. And I think it would be counter to what we have been representing throughout this process.

P.O. TONNA:

Great. Legislator Alden.

LEG. ALDEN:

Yes. I have a question to Paul Sabatino. Paul, under the current law if we put this back in the budget and we actually cut the check, haven't we broken the law?

MR. SABATINO:

Yes. You would have violated the 1995 and the 2000 statute.

LEG. ALDEN:

Thank you.

P.O. TONNA:

Legislator Nowick.

LEG. NOWICK:

With that last question, I'm not even going to go there.

P.O. TONNA:

Legislator Haley.

LEG. HALEY:

I think it's rather obvious that we have had a problem over the years with them filing in an opportune time. In spite of what Legislator Fisher says, the punishment -- it is a punishment -- it doesn't fit the crime. Now we're talking about a half million dollars that could have profound impact on the budget of Riverhead and an impact on taxpayers of Riverhead and the constituents of Riverhead. I think it's a little far reaching. I think we made our point. The Supervisor was here. I would support -- if he does it against next year, I will support it, because then the message -- I think the message has been sent loud and clear. And I think it's time for us to act responsibly. We're already raising taxes in the police district. This adds an average of \$2.11 or \$2.86 to the police district, one of the two. And I don't think it's too far for us to go for the benefit of Riverhead and Nissequogue.

P.O. TONNA:

Legislator Crecca.

LEG. CRECCA:

I have a question for Counsel. I just want to make something clear. This budget amendment that we pass not only bars them from receiving this year's revenues, 2002, but 2003 and every subsequent year after that.

MR. SABATINO:

Into the future, unless that statute is amended at some future date.

LEG. CRECCA:

Okay. What I'm going to ask you to do is, and I know it doesn't affect our vote here, is to draft an appropriate resolution so that if the town doesn't do it in a timely fashion --

P.O. TONNA:

It's already been done.

LEG. CARACCIOLO:

The resolution will be laid on the table today.

LEG. CRECCA:

That's exciting. I will be happy to cosponsor that, Legislator Caracciolo. And I should have figured if somebody was going to beat me to the punch, it would be you.

LEG. CARACCIOLO:

It's right here. It's in the packet.

P.O. TONNA:

Is that what really excites you?

LEG. CRECCA:

Taking a lunch break would excite me greatly.

P.O. TONNA:

Okay. There's a motion and a second. Roll call.

LEG. CARACCILOLO:

Mr. Chairman.

P.O. TONNA:

Oh, sorry. Legislator Caracciolo.

LEG. CARACCILOLO:

I would just like to make an appeal to my colleagues that given the unfortunate circumstances and events that resulted in this happening, the apology that was made personally by the Supervisor, and the adverse and punitive effect it would have on the residents of Suffolk County, the 27,000 residents of the County -- of the Town of Riverhead, who are County residents, who contribute and pay sales taxes for which that you have a right to expect they will receive in the way of public safety revenue sharing, and through no fault of their own, taking this action penalizes them, which would result in a double digit town tax increase next year. Now the town is going to be adopting their budget tomorrow. That's the deadline on state law, the 20th of November towns must adopt their budget. They will be doing so. If this resolution is not sustained, it will result in double digit town tax increase. I appeal to your good senses to sustain the veto and put this matter to rest. I think the town has made it very clear through its highest elected official that he personally guarantees this will not happen again next year and hopefully never. So I appeal to you to sustain the veto.

P.O. TONNA:

Okay. We have Legislator Carpenter, the Woman's Caucus is cooking in -- kicking in.

LEG. CARPENTER:

I just wanted --

LEG. FISHER:

Freudian slip, cooking in.

LEG. CARPENTER:

I have a question for Counsel. For us to cast a vote sustaining this veto, is that a legal or appropriate vote to take?

MR. SABATINO:

Sustaining the veto would violate two of our own County laws.

LEG. CARPENTER:

Okay.

MR. SABATINO:

It would be facilitating an illegal act.

LEG. CARPENTER:

Well, then I think that's important. You know, I stated on the record when the Supervisor was here that I certainly don't have a problem supporting revenue sharing. And I'm happy to hear that Legislator Caracciolo is putting that resolution in to find a way to do this legally.

LEG. CARACCILOLO:

Legislator Carpenter, would you suffer an interruption?

LEG. CARPENTER:

Sure.

LEG. CARACCILOLO:

Thank you. Counsel --

LEG. CARPENTER:

If it's brief.

LEG. CARACCILOLO:

It is brief. Would the way to rectify the situation be overriding the veto and not taking any action on the veto and revisiting the issue, vis-a-vis the resolution to be being laid on the table today sponsored by myself and Legislator Nowick? Would that be the correct mechanism to deal with this matter that wouldn't violate anybody conscience or ethics or anybody else?

MR. SABATINO:

It would be a legal vehicle or mechanism. It's a judgment call as to whether or not that particular proposal to find funding would be accessible. From a legal standpoint, overriding the

veto and looking for some appropriate mechanism in a subsequent bill would be the proper way to act.

LEG. CARACCILOLO:

Thank you. Thank you, Angie.

P.O. TONNA:

Legislator Nowick.

LEG. CARACCILOLO:

One final thing. Lynne, would you suffer an interruption?

Mr. Chairman, I would like to request the County Executive to issue a CN on the resolution that I will be laying on the table today.

P.O. TONNA:

Okay.

LEG. NOWICK:

That would be fine with me as long as I'm protecting the Village of Nissequogue.

LEG. BISHOP:

You always do. That's why you're here.

P.O. TONNA:

Legislator Fields.

LEG. FIELDS:

The only analogy that I can make is if you are on the parkway and you're speeding and you get pulled over buy a policeman for speeding and you have a ticket, because what you did was against the law, and then you say, well, I won't do it again, but I'm not going to pay the fine, because it's a problem for me.

P.O. TONNA:

Is that really --

LEG. HALEY:

Quite a bad analogy.

P.O. TONNA:

All right. There's a roll call.

LEG. GULDI:

Add me to the list. I want to speak to that.

P.O. TONNA:

All right. Legislator Guldi, you are on the list.

LEG. GULDI:

There is -- I have to respond to that analogy. There is a perfect analogy in the traffic court. If you got a ticket and because of the circumstances under which you got the ticket, you have a reasonable and plausible explanation, the court can and will dismiss that violation in the interest of justice. And I submit --

LEG. FIELDS:

But it wasn't the first time.

LEG. GULDI:

And I submit that, yes, it wasn't the first time and stuff happens. And we got the apology, and I think we have a good analogy. In the interest of fairness and justice to the town, we should let them have the money.

LEG. BINDER:

Is that what you tell the court with your client that been ticketed, stuff happens?

LEG. GULDI:

If it work, yeah.

P.O. TONNA:

Roll call.

ROLL CALLED BY HENRY BARTON - CLERK OF THE LEGISLATURE

P.O. TONNA:

Yes.

LEG. CARACAPPA:

Yes to override.

LEG. CARACCIOLO:

Given Legal Counsel's interpretation of I would be performing illegal act, I have to abstain and bring up my bill later.

LEG. GULDI:

No.

LEG. TOWLE:

No.

LEG. FISHER:

Yes.

LEG. HALEY:

No.

LEG. FOLEY:

Yes to override.

LEGISLATOR LINDSAY:

Yes.

LEG. FIELDS:

Yes.

LEG. ALDEN:

Yes.

LEG. CARPENTER:

Yes.

LEG. CRECCA:

Pass.

LEG. NOWICK:

Abstain.

LEG. BISHOP:

No.

LEG. BINDER:

Yes.

LEG. COOPER:

No to override

D.P.O. POSTAL:

Yes.

LEG. CRECCA:

Abstain.

MR. BARTON:

10.

LEG. CARACCIOLO:

Would you make the announcement?

P.O. TONNA:

It's not overridden, it's sustained. Last one, Resolution 977, motion by Legislator Caracciolo, seconded by Legislator Carpenter. Roll call. This is the FRES, Suffolk Community College tax

stabilization fund, yadda, yadda, yadda. Same thing, but only different bill.

LEG. FOLEY:

On the motion.

P.O. TONNA:

Please, guys, we've had thirty minutes to look at this.

LEG. FOLEY:

Yeah, but on the motion. To the Budget Review office, it states that these funds are for the welfare contributions for the school crossing guards and that the funds were inadvertently omitted from BRO analysis. If we could hear briefly from Fred Pollert on that.

MR. POLLERT:

That would be correct. The estimated surplus is \$289,000 in that fund, plus \$150,000 in fiscal Year 2002 for a total of \$439,000, not the and \$660,000 dollars we had estimated.

LEG. FOLEY:

So what's the upshot of us sustaining this and what's the upshot of us overriding the veto?

MR. POLLERT:

If you sustain the veto, \$660,000 will be left in the welfare fund in the police district. The tax stabilization reserve fund is not going to receive the benefit of \$550,000, and FRES will not be receive \$50,000 for their training programs.

LEG. FOLEY:

Finally, Mr. Chairman, what's BRO's recommendation on this? If, in fact, as the County Executive states, the funds were omitted within BRO's analysis? Is it a wash either way or do we need to sustain it? What's the recommendation of your office?

MR. POLLERT:

The Legislative desire was to fund the FRES Program with \$60,000 of the offset. The problem is that the total surplus is \$439,000 over the two years, not the \$660,000. We asked Legislative Counsel if could you just do a portion of the override, just fund the 60,000 for FRES, and that's apparently not an opportunity. So it's an all or nothing vote.

LEG. FOLEY:

Well, if we override -- those of us who particularly take an interest in our school crossing guards, if we don't -- if we override the veto, does that mean we are shortchanging the crossing guard's welfare fund contribution?

MR. POLLERT:

It would mean there would have to be a transfer because that's a requirement of the collective bargaining agreement. There would have to be a transfer from the salary account or some other item into the welfare fund.

LEG. FOLEY:

Okay. So we can override the veto and still address the issue of -- of funding for that particular account, correct? We don't have a choice, it has to be funded.

MR. POLLERT:

It would have to be funded, that is correct.

LEG. BISHOP:

Mr. Chairman.

P.O. TONNA:

But it's a tight -- it would be tight by 600,000.

LEG. BISHOP:

Mr. Chairman.

P.O. TONNA:

Yes.

LEG. BISHOP:

Isn't the converse true also that we could in the beginning of the year, since this is really a search for \$50,000 and we identified a fund that really doesn't have that kind of surplus that we thought it did, couldn't we just do a resolution for 50,000 using the 480?

MR. POLLERT:

Yes, you could.

LEG. CRECCA:

You are better off doing that.

LEG. BISHOP:

I would urge us to sustain the veto.

MR. POLLERT:

It wouldn't come out of tax stabilization. You would have to find an offset other than tax stabilization.

P.O. TONNA:

If you sustain the veto and then in the beginning of the year when we have the chance to change it, we find a \$50,000 offset rather than vice versa.

LEG. CARPENTER:

Since I had sponsored this resolution, I say we not address this veto at all. Let it just ride and, you know, request that Budget Review as soon as they can find --

P.O. TONNA:

There is withdrawal of a motion from Legislator Caracciolo and a second from Legislator Carpenter.

LEG. CARPENTER:

Just a correction, this is actually to fund the scholarship program that we all overwhelmingly supported at the college.

P.O. TONNA:

Meeting recessed until 2:30.

(THE MEETING WAS RECESSED AT 12:48 P.M. AND RESUMED AT 2:30 P.M.)

[RETURN OF COURT STENOGRAPHER-LUCIA BRAATEN]**D.P.O. POSTAL:**

Mr. Clerk, are the affidavits of publication in order for the public hearing?

MR. BARTON:

Yes, they are.

D.P.O. POSTAL:

Okay. Our first public -- Ladies and Gentlemen, our first public hearing is regarding a proposal to form -- **Public Hearing regarding a proposal to form Suffolk County Sewer District No. 4 - Smithtown Galleria in the Town of Smithtown.** And the first speaker is Gary Pagliarello, Esq. Just hold one minute. I don't think your microphone is on.

MR. PAGLIARELLO:

Here we go. It's better. Thank you, and good afternoon. I've come to you this afternoon as both a resident and as counsel on behalf of several of the residents that live in that area that is going to be covered by the sewer district, and I come to you with questions more than anything else.

We moved into this development about a year-and-a-half ago, little bit longer than that, and since that time, we have received billing invoices from an entity which claims that entitlement to costs for the usage of the sewer treatment plant. I think my letter to the builders is what prompted this -- their action in this regard.

We have been somewhat unenlightened with their claim that they are entitled to costs, and now we're being told that there's going to be a new sewer district formed. The first question many of the residents have is do we owe anything to the people that are sending us invoices, and if so, why do we owe anything to them? I don't know if anybody is in a position to respond to that question. I've raised it to the builder, which I thought was the first avenue of -- to approach, and now I'm coming to you to find out if there's any arrearage.

LEG. NOWICK:

Maxine, may I just ask a question? May I just ask a question?

D.P.O. POSTAL:

Sure, go ahead.

LEG. NOWICK:

That's for the Galleria?

MR. PAGLIARELLO:

Yes, it is.

LEG. NOWICK:

Who's the builder on that?

MR. PAGLIARELLO:

The builder on that was Galleria Heights, I believe. There's a thirteen single-family home development that is adjacent to the larger --

LEG. NOWICK:

Yes.

MR. PAGLIARELLO:

-- Avalon. The builder was -- Crystal Court Estates is the name of the development, Mountain Brook Homes, I believe.

LEG. NOWICK:

And they don't know that answer, huh?

MR. PAGLIARELLO:

I'm sorry?

LEG. NOWICK:

They can't help you with that answer?

MR. PAGLIARELLO:

I have dealt with their attorney and their attorney has -- the next thing -- the attorney hasn't responded to me. The next thing I found was this letter in my mailbox, which made me believe

that maybe they had positioned for the formation of this sewer district, because I had raised these questions, and the next thing I know, there's this notice that there's a sewer district being formed. I don't know if one was a cause and the second led to the other, or if this was something that was being proposed all along. My letter may not have motivated anything. But I'm curious as to where our responsibility lies.

D.P.O. POSTAL:

Well, you know, I would suggest a public hearing, first of all, is for you to address the Legislature rather than for us to answer your questions. Probably the more appropriate place for you to ask questions is at the committee that is, I guess, addressing this issue, which would be the Public Works Committee. So, probably, I would suggest that you contact the Chairperson of the Public Works Committee, who's Legislator Caracappa, and make him aware that you would like to come to the next committee meeting and what your concerns are, and perhaps he could have whoever could respond to your concerns present at that next meeting. That would probably be the best course of action.

MR. PAGLIARELLO:

Well, with all of -- I guess, the remaining questions I have are relating to the present development of the sewer district that's going to be formulated. The letter that we received indicated that there would be a cost and an estimate of what that cost will be. The question that I have is, number one, how that cost was estimated, and how it compares with other sewer districts in the area. Is the committee capable of answering that question for me?

D.P.O. POSTAL:

I think our Counsel, Paul Sabatino, may be able to give you some information.

MR. SABATINO:

On that latter point, if you contact Ben Wright, who's in the County Department of Public Works, he's been in charge in the past of that information gathering. He might be able to give you the -- he should be able to give you the basis for the calculations.

As far as the other issue is concerned with regard to the developer, the only way there could be assessments or fees that are being charged would be if there was something that was filed either as a covenant or a restriction with the Suffolk County Sewer Agency and probably filed in Riverhead. So if you ran a title search for one of the relevant parcels, you should be able to find

if there's any underlying document. That would be the predicate for any assessment or charges that are being paid through the developer, and then those just get spun into the sewer district, if it's actually created.

So, at a minimum, if you call Ben Wright in Public Works, you can at least get the estimated cost answer, and if you'd run a title search for the property, you'll find out if there are any covenants.

MR. PAGLIARELLO:

Okay.

MR. SABATINO:

Or covenants or agreements that were filed with the Sewer Agency.

MR. PAGLIARELLO:

Well, that's why question. Like I said, in the absence of such agreements or covenants, are we to believe that the developer's entitlement doesn't exist?

D.P.O. POSTAL:

Mr. Pagliarello, I'm sorry. Legislator Crecca --

MR. PAGLIARELLO:

Yes.

D.P.O. POSTAL,:

-- who I believe is your Legislator, would be happy to meet with you --

MR. PAGLIARELLO:

Terrific.

D.P.O. POSTAL:

-- and to help you get answers to the question that you're raising.

MR. PAGLIARELLO:

Okay.

LEG. CRECCA:

Yeah. When you're done with your comments today, I'll meet you in the back, or I'll have one of my Aides come back and we'll make arrangements to meet with both of you and some of the other homeowners, so we can get together and try to address some of these issues.

MR. PAGLIARELLO:

That would be fine. Thank you.

LEG. CRECCA:

No problem. Thank you for coming, and, please, wait for me in the lobby, and I'll either come back or I'll send an Aide back.

MR. PAGLIARELLO:

Thank you.

D.P.O. POSTAL:

Thank you, Legislator Crecca. The next speaker is Eric Whitehead.

MR. WHITEHEAD:

Hello. I'm a homeowner in Coventry Village and on the Board of the Coventry Village, which is 29 homes, and I'm just here to say that I'm in favor of the County taking over the operation of sewage treatment plant. The current operators we -- are Avalon Commons, and currently we're being overcharged by them and we can't get substantiation on the budgets that they're presenting. So I'm just here to say that I'm in favor of this sewer district being formed.

LEG. BISHOP:

You're in the same place as the last gentleman, same district.

MR. WHITEHEAD:

He's actually on top of the hill. It's by a separate builder. I might be able to answer some of his questions he had, but --

LEG. BISHOP:

You should go out in the hall. There seems to be a meeting out there.

MR. WHITEHEAD:

Yeah. So that's all I just wanted to say.

D.P.O. POSTAL:

Thank you, Mr. Whitehead. I have no other cards. Is there anyone who would like to address the Legislature on this public hearing? Hearing no one, Legislator Nowick? Motion to close, Legislator Bishop, seconded by Legislator Nowick. All in favor? Public hearing regarding the proposal to form Suffolk County Sewer District No. 4 - Smithtown Galleria, is closed.

Next **Public Hearing is regarding Introductory Resolution Number 2049, a local law too require truth-in-selling statement for motorized scooters.** I have no cards on this public hearing. Is there anyone who would like to address the Legislature on this resolution? Hearing no one, Legislator Carpenter?

LEG. CARPENTER:

Motion to close.

D.P.O. POSTAL:

Motion to close by Legislator Carpenter, seconded by Legislator Lindsay. All in favor? Public Hearing Number 2049 is closed.

Public Hearing regarding Introductory Resolution Number 2057 - A local law updating regulations for precious metal exchanges and dealers in secondhand articles. And I have no cards for this public hearing. Is there anyone who would like to address the Legislature on this hearing? Hearing no one, Legislator Carpenter?

LEG. CARPENTER:

Motion to recess.

D.P.O. POSTAL:

Motion to recess, seconded by Legislator Fisher. All in favor? 2057 is recessed.

Public Hearing regarding Introductory Resolution Number 2077 - A local law to

strengthen enforcement of gas station and motor fuel distributor laws in Suffolk County. I have no cards on this public hearing. Is there anyone who would like to address the Legislature on this hearing? Hearing no one, Legislator Nowick, motion to close?

LEG. NOWICK:

Motion.

D.P.O. POSTAL:

Motion to close by Legislator Nowick, seconded by Legislator Binder. All in favor? Any opposed? 2077 is closed.

Public Hearing regarding Introductory Resolution Number 2081 - A local law to protect children by prohibiting smoking in passenger vehicles within Suffolk County where children are passengers. And I have a card from Phil Goldstein.

MR. GOLDSTEIN:

Good afternoon, Ladies and Gentlemen. I just couldn't resist the temptation to chide you with regard to how far reaching this Legislature wants to go. I realize, Mr. Binder, this was probably introduced facetiously.

LEG. BINDER:

No.

MR. GOLDSTEIN:

No? Your serious. Okay. There is something called the Constitution of the United States and people are supposed to have rights. We should have a freedom, even the freedom to choose to do things that are stupid, or perhaps not in our best interest. And the point is how far can the government go in intruding itself into our lives to determine what is best for us?

Now, actually, I agree with you, Mr. Binder, that it seems to me that parents who drive in closed cars and who are smoking in a sense are abusing their children, but then should we not invade the home and, you know, punish those parents who are smoking in the house? I mean, you know, it goes to the point of absurdity. What I'm trying to say very simply is we see more and more legislation coming down the pike intruding upon the rights of individuals when the activities that they are engaged in are not illegal, as, for example, a subsequent bill, which I also

submitted a card to speak about. You had imposed restrictions upon smoking, all right, and force restaurant owners and so on to invest money in creating a wholesome enough environment, so that people would not be intruded upon by smokers, and so on, and now you want to totally abolish that bill and replace it with a total prohibition with regard to the smoking in public places, and so on, and I just think you are going too far.

And I just wanted to remind you of the fact that the definition for democracy is not simply majority rule, but that the rights of the minority must be respected and protected.

(Applause)

Thank you.

LEG. BISHOP:

That's not the definition of democracy.

LEG. BINDER:

That's a republic.

LEG. BISHOP:

That's a republic. You should know that as a social studies teacher.

D.P.O. POSTAL:

David. David, this is Phil's time, so please let him continue.

MR. GOLDSTEIN:

What I'm saying is not incorrect. You're right, that our system of government is a republic, which is an indirect democracy, in that we elect the representatives who in turn make the laws that govern us. But the point, very simply, is that whether we refer to it as a republic or a democracy, our Constitution has provided us with certain rights. And what I'm saying is, in your zeal to do the good thing or the right thing or the feel good thing, you're overstepping the bounds, and you're creating laws that go too far, as with this ephedra business also.

As I said before, people do things that are not in their best interest, but they want the freedom, the right to be able to make those choices, and you are limiting their choices unnecessarily.

And the point is that there is the whole question of, yes, wonderful, you wrote a law, but then there's the enforcement of the law. And this morning we saw a prime example of how you yourself flouted the law, because you were told by your own Counsel that it is illegal to do what you did with regard to the budget, because you wanted to feel good about Riverhead and Nissequogue, so you violated your own law. I mean, that's hypocrisy. So, you know, I urge you to think twice before you embark on some of these acts of legislation which you, you know, contemplate. Thank you.

LEG. BINDER:

Madam Chair, could I --

D.P.O. POSTAL:

Phil. Phil.

LEG. BINDER:

Phil, Phil, Phil.

D.P.O. POSTAL:

There's a question from Legislator Binder.

LEG. BINDER:

Phil, I've got just a couple of question. Let me ask you a question. Do you believe that -- you said we should be able to do something that's bad for us, we should be allowed to do that. Do you think --

MR. GOLDSTEIN:

Big Brother shouldn't tell us.

LEG. BINDER:

Do you think that smoking in the car is bad for the smoker or you think it's bad for the child?

MR. GOLDSTEIN:

I think it's bad for both.

LEG. BINDER:

But do you think it's bad for the child?

MR. GOLDSTEIN:

Yes.

LEG. BINDER:

Okay. So now it's not a question of doing something bad for yourself, it's doing something bad for the child. Do you think that it is a reasonable State law that now exists that says you have to buckle up your child in a car seat. Do you think that's a reasonable state law, or is that intrusive and you should be able to put your kid in the back, not buckle him up, drive where you want and let him be a Ping-Pong ball if you get into an accident.

MR. GOLDSTEIN:

Here you are entering that gray area where the burden of responsibility falls upon the Legislature to try to determine when they are doing the right thing or when they are overstepping their bounds, because I mentioned the other side of this, which is enforcement. You may make yourselves feel good by passing all these laws, but the question is what is the enforceability of these laws?

LEG. BINDER:

But I didn't ask. Do you think it is a proper law to tell someone they need to buckle their child up in a car seat in the car; is that a proper law or was that improper?

MR. GOLDSTEIN:

I honestly can't give you an answer without thinking about it long and hard.

LEG. BINDER:

Okay.

MR. GOLDSTEIN:

Because that, as I said, is that gray area --

LEG. BINDER:

Okay.

MR. GOLDSTEIN:

-- where you're beginning to intrude into the lives of the people and trying to twist their arms and force them to do the right thing.

LEG. BINDER:

Could you see that government might have the responsibility to protect people who can't protect themselves, such as children, like a four year old who can't say, "Mommy, I can't breathe, let me out of this car," and they're strapped in their car seat, they don't have the choice? Is it government's role?

MR. GOLDSTEIN:

Mr. Binder, I agree, you can give me rationalization and justification --

LEG. BINDER:

Well, that's the point.

MR. GOLDSTEIN:

-- for the action, but what I'm saying is in -- from a pragmatic point of view, how far should the -
-

LEG. BINDER:

Right.

MR. GOLDSTEIN:

-- Legislature go in attempting to define for the people how they ought to behave?

LEG. BINDER:

Right. And do you think it might be proper government, based on U.S. type government, because I'm somewhat of a student myself of what you've been teaching, that government has instituted -- one of the things is to help people who can't help themselves, but not, in other words, the line is not to help people who can help themselves, make a choice? Let's say they go into a restaurant. I don't want to go in, I don't want to breathe it, I don't go in, but that government might have a responsibility to protect that child? That's why you have child abuse laws, child -- you have to strap them in laws, and that's what the line is. And when you say

going into a house would be overstepping, I agree with you, because you have a reasonable, under the Constitution, a reasonable expectation of privacy in your house, but in a car with windows on a public thoroughfare, no one's ever felt that you did. In the trunk you might, but in the car itself, you can't be drinking an open beer, because you say, "Well, that's private, I'm in the car, because you're open to everyone. So wouldn't that make sense to you, that maybe that is constitutional and that does follow precedent, legal precedent, and constitutional law.

MR. GOLDSTEIN:

I would tend to --

LEG. BINDER:

Good.

MR. GOLDSTEIN:

-- agree with you personally. But, again, as I say --

LEG. BINDER:

Okay.

MR. GOLDSTEIN:

-- I think you have to use more than just that kind of a legal argument to justify the action. I have, you know --

LEG. BINDER:

But isn't there a philosophical argument, and think -- I would like you to think about the philosophical argument of that line being drawn, helping --

MR. GOLDSTEIN:

I said I would have to give it long, deep thought.

LEG. BINDER:

-- helping children, maybe the mentally infirmed or others --

MR. GOLDSTEIN:

Yes.

LEG. BINDER:

-- to help -- our job to help them --

MR. GOLDSTEIN:

Off the top of my head --

LEG. BINDER:

-- but don't go to the line of helping people who have the free choice to choose.

MR. GOLDSTEIN:

Yes, I would agree with you.

LEG. BINDER:

Thanks, great.

LEG. HALEY:

Phil.

MR. GOLDSTEIN:

Yes.

LEG. HALEY:

Would you -- I think the -- would you agree that one of the foundations of our government, and probably many governments, starts with the family unit, and do you think that --

MR. GOLDSTEIN:

You're getting into --

LEG. HALEY:

No, no, no, no. Let me finish. Let me finish. Do you think our responsibility is to do as much education as possible, so that family unit can still come and make the decisions that they think are appropriate, that we should not interfere with the family unit, and that we should, in fact, stop insulting people, because saying to them -- saying to those people, "You know what, you're

not intelligent enough to make a correct decision, therefore, we're going to make one for you"?

MR. GOLDSTEIN:

As a retired educator, I agree with you. As far as the family unit is concerned, and so on, I don't want to get into that. But I agree 100%, that I would much prefer that government exercise its powers in terms of education, rather than use legislation and try to impose upon people and diminish their rights to make choices for themselves.

LEG. HALEY:

Thank you.

(Applause)

D.P.O. POSTAL:

Just a minute, Phil. Phil, question from Legislator Bishop?

LEG. BISHOP:

No.

D.P.O. POSTAL:

Oh, I'm sorry.

MR. GOLDSTEIN:

Oh.

D.P.O. POSTAL:

See, that's amazing. Legislator Bishop, you always feel that the Chair doesn't give you the opportunity and here's an extra, so count that for next time. I have no other cards on this hearing. Is there anyone else who would like to address the Legislature on this hearing?
Hearing no one.

LEG. BINDER:

Madam Chair.

D.P.O. POSTAL:

LEG. BINDER:

Yeah, I'd like to make a motion to close.

LEG. HALEY:

Second

D.P.O. POSTAL:

Second by --

LEG. BINDER:

On the motion, Madam Chair.

LEG. BISHOP:

On the motion to close?

D.P.O. POSTAL:

Certainly.

LEG. BINDER:

On the motion to close.

D.P.O. POSTAL:

Nobody's objecting.

LEG. BINDER:

On the motion to close. I think it is absolutely amazing that the people that have come here today who are so concerned about health, and cancer, and lung cancer, and heart disease, and who are here on a health related -- on a different health related bill, they're all here, they all care about people's health so much and they can't speak for the children. Their tongues are tied.

D.P.O. POSTAL:

Allan.

LEG. BINDER:

They have nothing to say to protect the children.

D.P.O. POSTAL:

Allan, I think you've made your point, because this is on the issue of a motion to close.

LEG. BINDER:

Motion to close. They have nothing to say. We might as well just close it.

LEG. HALEY:

Second.

D.P.O. POSTAL:

Okay. We have a motion and a second. All in favor? 2081 is closed.

D.P.O. POSTAL:

The next public hearing is regarding Introductory Resolution Number 2103 - A local law to offer freedom of choice smoking restrictions for bars, restaurants and restaurant bars. And the first speaker is Claire Millman.

MS. MILLMAN:

I am Claire Millman, and we are appalled that this bill has surfaced at this time and in this place. Localities throughout this country and on 191 governments throughout the world are now moving quickly to fight the epidemic of disease and death caused by active and passive tobacco smoking.

Suffolk County, a leader in public health through all these years, would regress at a time when all others are making progress in protection from a killer of this magnitude.

The choice proposal, which is neither new, nor local, was created by Philip Morris in 1989 as part of its accommodation/preemption program, and Philip Morris promoted the measure through the country through its front group, the National Smokers Alliance, in order to divert people away from effective smoke-free public policies. Philip Morris plan called for red or green signs to indicate whether or not smoking was permitted in that establishment.

I quote from a speech given by Ellen Merlo, Sr. Vice President of Corporate Affairs at Philip Morris. "Our top priority in fighting the proliferation of smoking bans and restrictions can be summed up in two words: "Accommodation" and "preemption". "Accommodation" means that as an alternative to smoking bans, we support accommodation for both smokers and nonsmokers. Program participants displayed a distinctive green and red symbol to inform potential customers of their accommodation policy." That's whether there is smoking or nonsmoking inside the restaurant or bar. We stress again there is no safe level of exposure to the carcinogenic and toxic fumes of tobacco smoke, and all employees deserve the health protection of a totally smoke-free environment in the workplace. People should not have to choose between their lives and their livelihood.

I go back longer in time on this issue than probably anyone else on this Legislature or anyone who has spoken to you, 28 years.

[SUBSTITUTION OF STENOGRAPHER - DONNA CATALANO]

MS. MILLMAN:

I see the same few opposition people, hear the same arguments and watch them proven invalid, the same front roofs, the same strategy documented in the internal documents of the tobacco industry to rev up fear among the restaurateurs. On October 10th, at a City Hall hearing, I overheard one the young men filling the row behind me say to the others, so is Philip Morris paying for our dinner tonight. At a prior hearing, the gallery was packed with Philip Morris employees sent to pose as retailers. That was discovered by a reporter who followed them back to their Philip Morris offices, and it was written in the newspaper. We urge restaurateurs to rise above the myth of loss of business, it has never happened and support the health of all employees and patrons. I also received the pleas for health and the pain of people who need their job and can't argue with their boss without the smoke free law to back them up. The entire world is now striving to eradicate this menace. Ten million doctors world wide have called upon governments to take action on tobacco prevention and protection from second hand smoke. With one billion people estimated to die in the 21st Century from tobacco related causes, totally smoke free is already a health way of life in very many localities in our country. It would be ludicrous for Suffolk to go backwards. We have the ever growing mountain of scientific studies on the health issue, which is what this is about and the verification that totally smoke free is good for business as well. And while protecting non smokers, it denormalizes smoking our society, helping smokers to quite and deterring children from starting. Totally smoke free is a

win-win situation and policy. Thank you.

LEG. HALEY:

I have a question.

D.P.O. POSTAL:

Legislator Haley.

LEG. HALEY:

I appreciate your input. I was just curious on your feelings of the previous Resolution 2081, the law to protect children by prohibiting smoking in passenger vehicles within Suffolk county where children are passengers. Do you support that?

MS. MILLMAN:

I totally agree that parents should not smoke in the car with their children. I totally agree that nobody should be smoking in a car with anybody else in the car. However, I do not agree with legislating this issue.

LEG. HALEY:

Thank you.

D.P.O. POSTAL:

Legislator Binder.

MS. MILLMAN:

I would like to also indicate as long as I've been asked that as far as the seatbelts are concerned, the driver is required by law, not just the children to buckle up, the driver too. So would that mean that you would legislate that nobody's allowed to smoke in his or her car regardless of whether children -- or not children -- thank you.

D.P.O. POSTAL:

There's a question from Legislator Binder, Claire.

MS. MILLMAN:

Yes, sir.

LEG. BINDER:

I actually think we shouldn't legislate people buckling themselves up, but that with children it's the right thing to do. But don't -- but you were just talking about your concern about accommodations, that's what the tobacco people have -- don't you think you might be accommodating drivers abusing their children in cars with cigarettes by your silence on this and being against the legislation?

MS. MILLMAN:

I'm not accommodating anything. This is a carcinogenic substance that you are asking to keep in the work place. And the employees have no choice but to go to their work place and be assaulted by these toxic and carcinogenic fumes. And at this point in time, I think it's long overdue that we protected all employees.

LEG. BINDER:

Do the children have a choice that are in the car?

MS. MILLMAN:

They are -- they are their parents -- I hope that the parents would get the education, and I hope something will be done about that. I will say this --

LEG. BINDER:

So then we should educate the bar owners.

D.P.O. POSTAL:

Allan, let her finish answering.

MS. MILLMAN:

I will say this. You asked me a question, may I answer?

LEG. BINDER:

Sure. Sure.

MS. MILLMAN:

I do know that today in the courts there are custody battles because, and I'm sure you've read

them too, because one parent feels that the other as a smoker should not be around the child and should not be smoking in the home or the car, I'm sure -- if it's in the home, I'm sure it's in the car as well. So the courts are taking care of that. I would also like to bring up that if you are concerned, as you say you are, about children, I seem to recall that in years past when we tried to get the vending machines out of the children's venue, you argued against that.

LEG. BINDER:

No.

MS. MILLMAN:

And we were trying to protect the children. And you said lock out devices in spite of the fact that it was chronicled that lock out devices did not work, and the -- the machines were left open for the children to go to because the proprietors were to busy elsewhere doing other things, and they couldn't keep the locks --

LEG. BINDER:

While we disagree with that because I don't think -- I think the lock device was very successful in keeping the kids away. It's a difference of opinion, but do you know -- do you think -- do you think we should be protecting -- you're talking about protecting people who can choose to work or not work, and you think it's okay -- do you think it's okay not to protect these children? Let me finish.

D.P.O. POSTAL:

Excuse me, Allan, could I just interrupt you for one minute and Claire? We need to calm down. Please let me finish.

LEG. BINDER:

Well, I'd like to ask my question.

LEG. BISHOP:

I think somebody's passed out ephedra.

D.P.O. POSTAL:

I'm going to ask that --

LEG. BINDER:

That's why I wouldn't ban it.

MS. MILLMAN:

First of all, I was addressing this particular bill.

D.P.O. POSTAL:

Claire. Claire, let me finish. She is speaking on another public hearing, so certainly you can --

LEG. BINDER:

I'm making the connection.

D.P.O. POSTAL:

-- you can question her, but I would ask if you could do that in, I guess, less confrontational tone of voice.

LEG. BINDER:

If I'm not going to be interrupted, then that's easy. I raise my voice when I'm interrupted.

D.P.O. POSTAL:

I'm going to ask you not to raise your voice. And Clare I'm going to ask you to not interrupt the Legislature -- the Legislator when he is asking you a question. And Allan -- Allan, by the same token, when Claire is answering the question, I'm going to ask you to wait until she finishes. Okay. Now where are we?

LEG. BINDER:

So my question really is don't you think maybe it smacks of a little hypocrisy that there are children where you say the parents, we would hope that they get educated, we would hope that they don't hurt their children, but we're not talking about educating the restaurateurs, we're not talking about educating the bar owners and protecting the workers, that we need legislation for. People who can choose or not choose to work, there we need legislation, not education. But when it comes to parents and their children, who by the way, obviously breath more air at a higher rate, would be in a more concentrated area, have lower body weight so the toxins that are in the smoke would act on them to a higher degree, those children we don't need to protect by legislation. We just have to hope for some education. Do you think that -- don't you think

that smacks of a little hypocrisy?

MS. MILLMAN:

Can I answer that now? There is nothing -- there is nothing in the way of hypocrisy in saying that you want a worker to be able to go to work everyday without breathing carcinogenic and toxic fumes. Don't say because that is hypocrisy that a worker can find another job, doesn't have to go to work. I'm hearing that in this economy and the restaurateurs are afraid that it's such a fragile economy, they're going to lose business. They're not. They're not. It's been proven that they're not. This is total precedence for this all throughout Massachusetts. I go to Amherst to my daughter and it's wonderful, nobody smokes anywhere inside. And you can go anywhere. And they didn't lose business, okay? And that's --

D.P.O. POSTAL:

Claire. Claire, I'm going to ask you to please stop, because we're going so far off of this public hearing that I -- Claire, Claire -- that I would real like to move on because we have a great many speakers. Thank you for your testimony. And our next speaker is William Stoner. Is William Stoner here?

MR. STONER:

Hi there. My name is Will Stoner. I'm here to speak against the legislation that is termed choice. What this -- Claire did a very good job of summing up this legislation. It is actually more than a thinly veiled guise of smoking accommodation. It's a tactic that Philip Morris is using all across the country to weaken the progress that great counties like Suffolk have made to protect public health. And that's what smoking regulations do, bottom line, is they protect public health. I'm not going to go on. Claire did a great job summarizing it. In nowhere we stand -- I just want to make it clear that we absolutely oppose this legislation.

D.P.O. POSTAL:

Thank you. I think there's a question from Legislator Haley.

LEG. HALEY:

Yes. I wanted to know what your position was on local law to protect children by prohibiting smoking in passenger vehicles when in Suffolk County when children are passengers.

D.P.O. POSTAL:

I'm going to interrupt you. And I would suggest that if people would like to speak on that, and they have not signed a card for the public hearing --

LEG. HALEY:

Madam Chair, this is -- this is an issue that's on smoking in general.

D.P.O. POSTAL:

It certainly is, but there's a public hearing on a different resolution. Now, if --

LEG. BINDER:

He has the right to ask -- he has a right to ask these questions.

D.P.O. POSTAL:

He can ask these questions any place he wants as soon as we get out of the hearing

LEG. BINDER:

He wants to see how it affects his vote.

D.P.O. POSTAL:

I'm sorry. There's a public hearing on a different resolution. If anyone would like to discuss any other --

LEG. HALEY:

I rephrase my question. I'll rephrase my question. If we were to not support this and support the ban in smoking in all restaurants and taverns, would you support a ban in cars where children are passengers?

MR. STONER:

Yes, we do support the ban of smoking in bars, restaurants, bowling centers, bingo halls and other work places, because there is piles of documented evidence that Legislative -- Legislative proposals --

LEG. HALEY:

Are you going to get to my question?

MR. STONER:

Yes.

LEG. HALEY:

Okay.

MR. STONER:

Are you going to let me finish my answer? If -- there are piles of documented evidence that show that the Legislative approach to eliminate smoking in the work places is an effective means of protecting public health. Now, there is no evidence that shows that Legislative means to ban smoking in vehicles is an appropriate or effective means at protecting children from their parents who may smoke in the vehicle. The approach that is being taken right now is there is extensive education done to protect children from smoking in confined areas like the car and the home, not just cars, and the home. And this means is shown to be extremely effective, and that's the approach that the American Cancer Society supports, because we are a science-based evidence organization. We don't base our responses because, you know, there's enthusiasm from specific Legislators or, you know, a few people in the community. It's about science and that's where our answer comes from, and that's where -- that's what our position is, and it will continue to be that until there's scientific evidence that shows that that's an effective means.

LEG. HALEY:

I think -- we talk about an educational perspective, we in the County are spending tobacco monies to educate everybody. We have -- I think it may have even been you or someone who said that the -- about 20% of our population in Suffolk County smoke, where approximately 23% in the state and somewhat lesser percentage maybe 17 or 18% in California, which says to me that that -- therein lies some effect of education. It seems to me that that same education that's worked in every other arena, why shouldn't that work in the arena where people decide whether or not they want to participate in tavern or not. But putting that aside, is it safe to say that your answer is that at this junction you don't support a ban on smoking in a vehicle where children are passengers?

MR. STONER:

Legislatively, that's correct.

LEG. HALEY:

Thank you.

D.P.O. POSTAL:

Legislator Binder.

LEG. BINDER:

Let me ask you a question, if Suffolk County was the first county in the nation to have a smoking ban, there was none other, we were the first, because we've done first -- as Legislators here know, we've been the first on a lot of things -- if we were the first, would you have opposed that, us being in the first in the nation to ban it in restaurants? Would you have -- because see at one time there was no statistical evidence to show that banning it in restaurants made a difference. Would you have opposed it then?

MR. STONER:

Probably not.

LEG. BINDER:

Probably not. Thank you. That's all I need. The hypocrisy is terrible.

D.P.O. POSTAL:

Allan. Allan. That's not called for.

MR. STONER:

You want to talk about hypocrisy? I'd like to address that.

D.P.O. POSTAL:

I'm sorry. No. He was -- he was not --

MR. STONER:

No. Let me address that.

D.P.O. POSTAL:

No, I'm sorry. He was not right in making the statement he made. You will only compound the error if you say something that's inappropriate. I will ask you to please not do so and thank you

for your testimony. Thank you.

LEG. HALEY:

Madam Chair, just a point that I'd like to make, and really I think you handled that excellently.

D.P.O. POSTAL:

Thank you.

LEG. HALEY:

Very well. And I think that same -- same thing should have been handled when a County Comptroller was up here. A member, a formal member of this Legislature, a former Presiding Officer and County-wide elected official, I don't think he was treated properly, because what --

D.P.O. POSTAL:

Could I -- could I just interrupt you for a minute, because -- no, no. If you would like to bring this issue up at another time, you are perfectly able to do that.

LEG. HALEY:

I will.

D.P.O. POSTAL:

We're in the middle of a public hearing.

LEG. HALEY:

I will. I just wanted to make a statement, I thought you did well.

D.P.O. POSTAL:

Our next speaker is Marianne Zacharia.

MS. ZACHARIA:

Thank you. Good afternoon. Marianne Zacharia, American Lung Association, Nassau-Suffolk. The American Lung Association urges this Legislature to vote against Intro Resolution 2103, which is a bill to offer the freedom of choice smoking restrictions for bars, restaurant and restaurant-bars. This bill is a backwards step for public health of employees and patrons as

well. It weakens existing regulations and placed right in the hands of the tobacco companies infamous red light-green light accommodations campaign of the late 1980s.

Well, the year is 2002 and the information that we've compiled on the deadly effects of second hand tobacco smoke continues to mount each day. The health effects of second hand smoke exposure have been reviewed extensively in scientific literature, and there are now more than 3000 scientific articles on the health effects of second hand tobacco smoke. We know that it's the cause of 53,000 deaths in non smoking Americans each year, and the cause of 8000 to 26,000 new cases of asthma and up to a million aggravated cases of asthma. It's the third leading cause of preventable death in the United States behind only active smoking and alcohol. And it's the number one environmental cause of cancer. Surely all of these facts led us to one conclusion; stricter standards are necessary, not weaker standards to adequately to protect all workers from the devastating effects of second hand tobacco smoke. And it's time to ban smoking in all work places, and the only way to do so is to reject this particular resolution and pass 2020.

D.P.O. POSTAL:

Thank you. There's a question from Legislator Haley.

LEG. HALEY:

I've often mentioned the incremental approach to usurping, I think, what is the right of the private sector and everything. In this particular instance, what this particular resolution does, and I'm asking you in a form of a question if you realize, it actually does have a slightly incremental approach that which seems to be okay with the taverns and restaurants. While they do provide today some separation between smoking and non smoking, this goes a little step further and requires that they, in fact, post it probably, all right, to make sure that those people can make that freedom of choice, and it also provides for not only the posting, but it provides for the Department of Health to post on a regular basis, preferably on a website, those restaurant who have met Health Department criteria for the specific separation between smoking and non smoking. From that incremental approach that many of the anti smoking advocates have taken, it seems to me that this in spite of the fact that -- you are almost painting it as if this is contrary to Legislator Foley's bill banning smoking altogether, when, in fact, this is -- this is taken another little step to make sure that we create the divide between smoking and non smoking. So why would you have a problem with that?

MS. ZACHARIA:

We don't think it's the right way to go. We have much more evidence now relating to the effects of second hand tobacco smoke. This bill does -- in no way protects the workers from the effects of second hand tobacco smoke. And it's a step backwards, it's not a step forward.

LEG. HALEY:

You know -- don't you think that this is somewhat insulting to those people who decide to take a job knowing full well now they've been educated as to the risk of second hand smoke, they're no different then a police officer that decides to take a job and knows that there are times, there are risks involved, no different then someone who decides to work at the beach knowing that being out in the sun there's a risk involved. How is this any different than that? That's the first question. The second question is would you -- if we were -- if this was to not pass and Legislator Foley's ban on smoking would pass, would you like to extend that into forbidding smoking in vehicles while children are passengers?

MS. ZACHARIA:

How did I know that was going to come up? Well, the difference here is that second hand tobacco smoke is an avoidable occupational hazard. There's a difference. You know, when you go to work as a police officer you know that you could get shot. There are certain things that you can do to protect yourself as far as bullet proof vests and things that like. They are certain things that you can't avoid being a police officer. When you go to work as a bartender or a waitress, you can avoid second hand smoke if it's banned in the work place. It's an avoidable exposure. And truly, there have been court cases that have supported this and have said that -- the courts have ruled that employers must provide workers with smoke free work places. So that's the difference here.

The second part of your question, if you would, we believe that there are certain things that need to be legislated, and work places are a place that need to be legislated, and there are other places where it's more appropriate to educate. And in that case, we believe that smoking with parents and children is one of those things that needs to be educated. And, in fact, we know that education works. In California and Massachusetts, they've done studies after doing large public campaigns on the effects of second hand smoke around children and have found that behavior changes have happened, tremendous behavior change -- changes. Parents do not smoke around their children as much as they used to after and before the campaign. And they've done actual studies, and I can get you those studies. So we know education in that

particular instance is totally effective, whereas I don't think educating a bar owner that his smoking -- his patrons and the workers that he's affecting their health, it's not going to do it, because if it did work, they wouldn't -- they would have no smoking in bars and restaurants right now. It's not working, so that's why we need to legislate it.

LEG. HALEY:

We are talking about not the owners of the restaurants and taverns, I'm talking about those people in particular who decide to work in that environment knowing full -- full well knowing the risks, just like those fellows that go up and put steel together 40, 50, 60, 100 stories high. They know what the risk is when they go in there.

MS. ZACHARIA:

But this is an avoidable occupational risk. Working 30 stories up, you know, you can't avoid that. This is an avoidable one, and that's the difference.

LEG. HALEY:

I'll finish there.

LEG. BINDER:

Madam Chair.

D.P.O. POSTAL:

You'll be right after Legislator Foley. Okay, Legislator Binder, Legislator Foley has --

LEG. BINDER:

You said that education in that -- in the case of parents is totally is totally effective. What does totally effective mean? You used that word.

MS. ZACHARIA:

Totally effective means that we move the numbers. We move the numbers -- you're never going to get 100%. You're never going to get 100% even if you even ban smoking.

LEG. BINDER:

Give me an idea of what moving the numbers means.

MS. ZACHARIA:

Yes, I have -- okay. In California, from 1993 when the campaign kicked off until '99, the percentage of children and adolescents zero through 17 years old who were protected from ETS at home rose from 77 to 88%. It's important to note that all ethnic and racial -- ethnic and racial groups had similar success. The group that benefited the most was the group of children zero to five years old who lived in homes where adults smoked, protection, home, being smoke free rose from 19.3% in '93 to 56.7% in 1999. Behind these outcome figures for the population as a whole are successes by many individual projects. And then have -- go on to other projects. But the full report is available in the California Tobacco Control Program, a decade of progress.

LEG. BINDER:

Do they get those numbers by polling?

MS. ZACHARIA:

I believe, yes, they did.

LEG. BINDER:

So as education about this abusive nature of second hand smoke on your child becomes between '93-'95 -- '99 more available, do you think that there might be a tendency for more people to say, no, no, no, I don't smoke in the house with my children anymore? Don't -- I mean, do you think it might even be -- the poll itself could be skewed by that? So that's ridiculous.

MS. ZACHARIA:

Well, we have no control over that. But certainly --

LEG. BINDER:

I understand, but you should be --

D.P.O. POSTAL:

Allan, let her finish, please.

LEG. BINDER:

But shouldn't you question those numbers as much as you might question the others?

MS. ZACHARIA:

Well, I guess you'll have to question the pollsters. I mean, I'm not in charge of the pollsters. Usually they utilize pollsters that are ethical and know how to ask the right questions.

LEG. BINDER:

Well, I understand that, but I also know polls, and I can tell you that sometimes environmental factors can effect polls --

D.P.O. POSTAL:

Allan, question.

LEG. BINDER:

-- can effect polls. And so that's -- that's ridiculous. You don't -- do you see -- do you see -- do you see a really maybe just even slight hypocrisy not wanting to run out an protect these children,
but --

MS. ZACHARIA:

No. We want to protect the children, we really do. But we feel that education is effective in that particular area.

LEG. BINDER:

Effective enough. And all the other children we don't have to worry about, right, because --

MS. ZACHARIA:

Well, certainly, even if you legislated it, you're never going to get 100% compliance here.

LEG. BINDER:

Do you think we might get more?

MS. ZACHARIA:

I don't think so.

LEG. BINDER:

None. Not one person, that's great.

D.P.O. POSTAL:

Allan. Allan, before I recognize Legislator Foley, I would just ask that we refrain from characterizing what speakers say as ridiculous or hypocritical. I don't think it's right, and I would certainly stop any speaker who --

APPLAUSE

LEG. BINDER:

I asked if she thought it might be hypocritical. I didn't characterize that one as hypocritical.

D.P.O. POSTAL:

Allan, you did say it was ridiculous, what she was saying was ridiculous. Now, I'm just asking --

LEG. BINDER:

Not hypocritical, just ridiculous.

D.P.O. POSTAL:

I'm asking that you be very careful in your choice of words. Legislator Foley.

LEG. FOLEY:

Thank you, Madam Chair. And I had to similarly admonish Legislator Binder at our Health Committee when he used similar --

D.P.O. POSTAL:

You are going to ask Ms. Zacharia a question.

LEG. FOLEY:

-- similar kind of language to speakers at that meeting. So evidently, he needs a little more education himself.

D.P.O. POSTAL:

I think you should confine yourself to questions to the speaker.

LEG. FOLEY:

Directly to the issue at hand. You mentioned, Marianne, that the best approach for the parent-child relationship is through education; is that not correct?

MS. ZACHARIA:

That's what the American Lung Association position is.

LEG. FOLEY:

And what's distinctly different about this proposed legislation and the other legislation that this legislation is effectively trying to block, namely 2020, is that in the field of work place safety, isn't there volumes, if not tomes of information out there that education alone in order to improve work place safety is not enough, that the history of improving work place safety and public health safety is really a combination of education and legislation, is that not true?

MS. ZACHARIA:

That's correct.

LEG. FOLEY:

And that's one of the basic points you are making before us here today.

MS. ZACHARIA:

That's correct.

LEG. FOLEY:

Okay. All right. Thank you.

D.P.O. POSTAL:

Thank you. Next speaker -- thank you very much. Next speaker is Phil Goldstein.

MR. GOLDSTEIN:

It is commendable on the part of the organizations who have appeared here out of a concern for the well being of citizens of Suffolk County. Yet, as I said before, sometimes we can be overzealous in the pursuit of doing what is good and what is right. I don't know if this is totally analogous because I was sitting and thinking trying to frame an appropriate argument, but there has been a lot of publicity about the fact that obesity is a growing concern in our society, a lot of

young people are overeating, many of the adult population is overweight and so on. They attribute the obesity of the youth to fast foods. Shall we close down the fast food industry as a result of the fact that the populous makes bad choices?

Again, I don't want to take a specific position in this matter, because that's why we elected you. I only ask that you exercise good judgment. While I represent the efforts on the part of those representatives of those organizations, still in all, there is this issue of constitutional rights and the freedom of choice. And I think a more moderate approach as Mr. Haley points out in a particular direction to try to influence and educate without totally depriving people of their rights. As you say, these are adults who work in those work places. They are informed. They are not alone, they are not unique. We've had countless reports about workers who have been employed in hostile environments. We know of all of the ads, we see the trial lawyers are having a field day with mesothelioma, cancer related due to asbestos, and there are countless others. The Brockovich movie, we can point -- so many examples where within our environment there are hosts -- host of hostile mini environments. And whether or not people choose to work in those hostile environments, granted their choices may be somewhat restricted; they don't have the freedom to come and go because they have a family to feed and so on. Yet, I -- I urge you to think carefully in making the decisions that impose your ideas of what their choices ought to be. Don't go too far, all right? Moderation is, you know, to be respected. Thank you.

D.P.O. POSTAL:

Thank you, Phil. Next speaker is Jack McCarthy.

MR. MCCARTHY:

Good afternoon, ladies and gentlemen. My name is Jack McCarthy, I'm on the Board of Directors of the Suffolk County Restaurant Association. I'd like to publicly thank Legislator Haley for bringing this bill forward and everybody that supports him. This is the bill that everybody has been asking for, and this is the bill that should -- we are the business people in this community. We employ the people, we pay the taxes. I think we need some representation, we're finally getting it. And I would like to thank him very much for this.

D.P.O. POSTAL:

Thank you. Next speaker is Michael Maupin.

MR. MAUPIN:

Good afternoon. I own a club here in Centereach, and basically I just believe it's a good bill that we've got going on right now. And it's a choice. A choice for the people to make their decision, whether to come in or not to smoke.

LEG. LINDSAY:

Thank you.

D.P.O. POSTAL:

Thank you. Next speaker is Bill Leudemann.

MR. LEUEDEMAN:

Good afternoon, ladies and gentlemen, my name is Bill Leudemann. Most of you know President of Suffolk County Restaurant and Tavern Association. It seems that the gist of this whole topic here is -- is we have the antis here, and it seems like we're here to promote smoking. We're here to promote our business. We feel that we should have the right to operate our business the way we feel is most beneficial to us. Legislator Haley's bill is something that we have been looking for quite a few years. It's finally come up as a bill. And I think that, you know, we as businessmen know how we could operate our business in the best way to make a living for us. And you know, I once again want to state that we're not here to promote smoking, we're here to promote our own business. Thank you.

D.P.O. POSTAL:

Thank you. Next speaker is Richard Collins.

MR. COLLINS:

Good afternoon, Legislators. It is nice to see that a number of you are at your assigned seats for today's meeting. I'm very disappointed that more of them can't be available. Since you do this approximately once, at the most twice a month, I'm sure you can caucus and find other times -- and this is not directed at the people I'm looking at right now -- but more or less for the people in the back rooms who have something better to do than listen to the public opinion. On the issue,

D.P.O. POSTAL:

Mr. Ryerson (sic) -- I just wanted -- I stopped the clock by the way. This is not on your time.

There are microphones throughout the building and other Legislators who may not be here can still hear the testimony. So I just wanted you to know that. And you can continue.

MR. COLLINS:

Madam, I've heard that before. I spoke at 11:35 a few weeks ago at another public hearing on the same issue basically. And that was basically to a semi empty room. Unfortunately, I do like to look people in the eye that I talk to and see their response, their movements, and how it effects them with what I have to say. Freedom of choice. It's a wonderful thing. Every day that we put a new law into effect, you eventually erode that freedom that's been given to us, gifted to us by a lot of blood, sweat and tears. I'm sure you've gone through a lot of agonizing nights thinking about the smoking issue. I don't doubt it for a minute. It's a real hot potato for you people. But I would like you to think back to when somebody, somewhere made a rule, put something in place that all of a sudden decided that you were going to do something differently, not because you wanted to, but because you were told to or by law you had to.

Freedom of choice. You've got a law before you proposed to continue to do just that; drinking, smoking, barrooms, it's been synonymous for years. However, I can understand it, I can almost sympathize with you when you say to me a husband or wife or two children are going to a restaurant for a meal. Most of our restaurants have accommodated you years ago with a smoke-free environment, at least in one area. If not, they do have that freedom of choice not to go to that particular establishment. Please reconsider. Legislator Haley, thank you. Thank you, Legislators.

D.P.O. POSTAL:

Thank you. Our next speaker is Theresa Cassiack. No. Is she here?

AUDIENCE MEMBER:

She's here.

D.P.O. POSTAL:

Okay. I'll skip over her card, and we'll move to Jeff Egan.

MR. EGAN:

Afternoon. Did you guys ever consider the hazards of your job before you ran for your position? I don't know if I'd want it.

D.P.O. POSTAL:

You couldn't even begin to imagine them.

MR. EGAN:

Scary. I was in the shower this morning talking to myself, and I must have been rambling, because my wife looked around the corner and said, Jeff, who the heck are you talking to? And I said I'm talking to the Suffolk County Legislature, honey, you've got to practice before you get you up there, it's scary up at that podium. She says, maybe you better practice talking to a shrink, because I think you're losing your mind. So I sat down later pondering if I was losing my mind or not, and I started thinking about this whole issue. And I think I'm going to try to bring it all together. I started thinking about the two sides of this issue.

The first side I want to talk about is the Will Stoners of the world, and believe me, I'm not attacking Will personally, he's probably a nice guy. But these professional lobbyists have come to Suffolk County with one goal in mind, to achieve their objective. And they're willing to do that in any way, at any cost. They could manipulate the numbers, they could hide facts that really don't agree with their position, they can do that because they have no constituents, they have no customers. Tomorrow, they will be in another town, another state, in front of another Legislature, and whatever happens in Suffolk County due to this Legislation doesn't matter to them. I'll talk about statistics very quickly. I'm not a stats guy. I think I failed Statistics when I went to Farmingdale College eight years ago, which is a false stat, it was ten years ago.

It's stats that we're looking at that they're giving us; oh, California, when they changed their law seven years ago business improved. You're probably -- I've been in this business a long time. Seven years ago you probably could have served dirt on a plate in San Francisco or Los Angeles and made money. The economy was booming. We were going nuts. People couldn't spend their money fast enough. People going out to eat seven days a week. As far as people, people built restaurants. Why would they ever build restaurants if business was bad? I used to get three calls a week, Jeff, come on, I want to invest in a restaurant, my options are -- cover my options, I'm making money, I want to invest in a restaurant. I don't get any calls any more. Fourteen months ago, and I won't say the date, we all know the date -- our lives changed and the economy changed. We're not in the position any more to change this law. It's -- it's just not worth rolling the dice on something that works.

Let me just quickly talk about the other side, the bar owners and the restaurant owners and the nightclub owners. We get up here and we mumble our words, we're not public speakers, we are not professionals at this, but we get up here at the risk of embarrassing ourselves. We're doing it for one reason. We're doing it because we're scared, we're scared about the future of the hospitality and the tourism business in Suffolk County, we're scared about our livelihoods, and we're scared about the livelihoods of our employees. One quick story about a waitress. My head waitress and I were -- were in the office the other day, and she looked at me, she said, Jeff, what's going on with this whole smoking deal. She goes -- let me give you a little background on her. She's about 45, been in the business 20 years. Her husband's a cook. She pays me \$165 a week because her son has a handicap and she needs insurance. This is a waitress, pays me \$165 a week out of her tips. And she says, what's going on with this smoking thing, I'm in trouble if this passes, don't these Legislators understand what this is going to do to our business if this smoking deal passes? And I looked at her, I said, Jean, I said, I not only don't know if they understand what this is going to do to our business, but I said, at this point I really don't know if they care, I think these lobbyists have got them so manipulated with all these figures and facts. And as far as I'm concerned, nothing means anybody. We are looking at our economy, we're looking at the People of Suffolk County, we're looking at Suffolk County's future.

Five years ago, we stood here, we debated this issue, we talked about it, and we came to a good compromise. A compromise that worked for the both the smoker and the nonsmoker. A compromise that was good for Suffolk County. We went back as restaurant and bar owners, and we put our money where our mouths were. We invested into our businesses, and we invested into Suffolk County. I think if we roll the dice on this issue at this time, I think all of us, all the People of Suffolk County are going to lose. That's it.

D.P.O. POSTAL:

Thank you. I can put you on the list. Legislator Fields.

LEG. FIELDS:

Hi.

MR. COLLINS:

Good afternoon.

LEG. FIELDS:

Thank you for coming here today, some of your words were very enjoyable. Are you familiar with May Browns Restaurant?

MR. EGAN:

I certainly am.

LEG. FIELDS:

Can you tell me anything about that?

MR. EGAN:

I've never been there, and I live in that area. I'm sure its a fine restaurant. And I'll tell you the truth. I got together with a bunch of college friends about 12 or 14 of us. And they said where should we go. Half the people said, I don't want to go to Mae Browne's because there's no smoking. I know the question you're going to ask. It's no smoking. She does well.

LEG. FIELDS:

Okay. Then the question that I was going to ask is it says owner Cathy {Zizronski} an avid promoter of smoke free establishments whose former restaurant Aegean East in Hicksville had gone smoke free years before its time found business went up and operating costs went down and customers kept coming back. So when Mae Browne's opened two and a half years ago, it was smoke free from the start. Cathy finds customer enjoy socializing at the bar before and after dinner and tell her it's difficult to find a nice place to relax with a glass of wine or a martini without the smoke.

MR. EGAN:

I hope she makes a lot of money, but I'll tell you what. Three quarters of my customers wouldn't go there.

LEG. FIELDS:

But what about the ones that would now come to your restaurant if you went smoke free? Do you think that is a possibility?

MR. EGAN:

We can roll the dice. I'll tell you what. I have trouble getting people into my place once a

week. I don't want to roll the dice on this. I don't want to say, well, maybe they'll come, maybe they wouldn't, maybe I'll get more people, maybe I won't. I don't know. But I'm just not in an economic position to make that gamble right now.

LEG. FIELDS:

Thank you.

D.P.O. POSTAL:

Legislator Alden.

LEG. ALDEN:

Hi, thanks for coming down and especially for those very astute remarks about the Legislature. But do you have a bar, or what type of business do you have?

MR. EGAN:

I have a tavern. I have a couple of taverns, two of them as a matter of fact.

LEG. ALDEN:

Okay. You have talked about the economic, you know, fears and the economic possibility of failure or huge impact that it could be on you, talk to me a little bit about, you know, like, have you thought about the impact on the people, like, the barmaids, the bartenders?

MR. EGAN:

I talk to people daily about this. And I wrote two little facts just in case I didn't get to talk. I went around during the Yankees Series -- it cost me a lot of money by not going further -- but I went around during that Yankees Series, and I talked to all my customers. I talked to the smokers, and I talked to the non smokers. Half of them -- half of them couldn't believe what I -- what we were going through. The other half says, well, what do they have the right to tell us we're doing, we're adults? I think that -- I think that the notion that this is something that is a front page issue that people are saying, oh, thank you for doing this, thank you Legislature, we need this on Long Island is false. I don't see a call for it. I see my customers being very happy with the ventilation systems I've put in.

LEG. ALDEN:

Aside from the customers then, how about the people that actually work in that environment?

MR. EGAN:

My employees are one 100% concerned about what it's going to do to their business. They -- my bartenders will walk up, I have a circular bar, I have ventilation systems all around. It get somewhat smoky. I'm not telling you I could take out all the smoke, I could take out -- I could take out as much of the hazard as possible, which I do. They're concerned. They're concerned because you walk around and you see these people smoking, and they're tipping my bartenders, that's how they make their livelihood. And they are very concerned of what they are going to do with these people. You don't want to give these people a reason to say, you know what, let's not go out tonight, I'd rather sit on the couch and watch the game and have a beer and smoke a cigarette, I don't want to go out and relax half way, I want to go and relax, I'm an adult. And that's what I'm finding. We're going out to get a little stress relief. It's tough out there. People their taxes are high, their jobs are not great. They go, let's go out, get rid of the kids for a while, we'll have a beer, we'll have a cigarette, let's go enjoy ourselves. They don't want to do it half way. They'll say, let's just sit on the couch, i'll call my friends, we'll stay here, we'll grab a beer, and we'll -- I'm not saying we'll have a smoke, but a lot of times it's hand in hand.

LEG. ALDEN:

How about do bartenders or barmaids ever convey to you a concern for their health as far as having to breath in the --

MR. EGAN:

Not once.

LEG. ALDEN:

Do all your bartenders and barmaids smoke, do you know?

MR. EGAN:

Seventy-five percent of them smoke.

LEG. ALDEN:

So the 25%, though, they're not aware that second hand smoke can cause cancer and things like that and cause bronchitis?

MR. EGAN:

Honestly, honestly, not once.

LEG. ALDEN:

All right. All right. Thanks. Thanks for the answer.

D.P.O. POSTAL:

Thank you. Wait. Wait, more questions. But before we -- just stay right there. I noticed that Scout Troop just came in, and if one of the adult leaders would like to just stand up and tell us what your troop is and where you're from.

AUDIENCE MEMBER:

Pack 3828 from Hauppauge, and they're working on their citizenship.

D.P.O. POSTAL:

Thank you.

AUDIENCE MEMBER:

Thank you.

D.P.O. POSTAL:

You're welcome.

MR. EGAN:

This is politics at its best right here. You couldn't have got better.

D.P.O. POSTAL:

You're right on that. We'll all agree with you on that. Legislator Carpenter.

LEG. CARPENTER:

They are seeing politics at their best -- at its best, because you and everyone else whose come here today, whether -- regardless of what side of the issue that you are on, you've taken the time to be a part of the process, to be a part of the government, because that's really how it works. And I just wanted to say that you should never apologize for what you -- you know, or how you spoke you spoke, because you spoke from the heart, and you did a terrific job.

MR. EGAN:

Thanks.

D.P.O. POSTAL:

Okay. We have question from Legislator Fisher.

LEG. FISHER:

Actually, my question was the same that Legislator Fields asked regarding the smoke-free restaurant. I did want to ask another question, however. By the way, I concur be Legislator Carpenter, you're --

MR. EGAN:

I think my friend who was paying wanted to go to the smoking restaurant, and the guys that did want to smoke were not paying, so he got the choice that day. I might go to Mae Browne's, I heard it's a fantastic place. But that day we choose to go to a smoking restaurant.

LEG. FISHER:

Okay. You were talking about your ventilation system, okay. So do you have an eating area where there's smoking?

MR. EGAN:

I as a tavern do not go by the -- I'm not restricted by the current guidelines, but I've taken upon myself to have a non smoking area with more ventilation, with more smoke eaters, okay? So I can't really represent myself as a restaurant that was dictated by the guidelines of the law. I went out and I did it myself.

LEG. FISHER:

So you were not part of that agreement five years ago with the ventilation system.

MR. EGAN:

Legally, no. But I did go back and make arrangements for my non smoking clientele, because I do serve food.

LEG. FISHER:

Okay, and it's not a separate --

MR. EGAN:

There is a separate area, okay, but the guidelines for say a dinner that is all food is much greater than my guidelines would be, because I'm a tavern, and I serve mostly alcohol.

LEG. FISHER:

Okay. Well, thank you. You certainly are a very compelling speaker, I just wanted to let you know that. You did a very good job.

MR. EGAN:

My wife would be proud.

LEG. FISHER:

Yeah. Practice in the shower, keep it going.

D.P.O. POSTAL:

The next speaker -- was there another question? I'm sorry.

MR. EGAN:

I thought I was getting away.

LEG. FOLEY:

Thank you. Thank you, Mr. Egan, for attending another meeting here. You mentioned to Legislator Fisher that you did not -- to put it differently, you were not included in the last law, you weren't required to make the changes.

MR. EGAN:

By law I wasn't. I didn't fall under the guidelines of being a restaurant.

LEG. FOLEY:

Right. So what changes did you make to your establishment?

MR. EGAN:

I added smoke eaters. I have a section that I -- it's a walled section that I built, okay. I made actual ventilation systems, fans that go in the wall that go in the ceiling. I wouldn't have to do --

what I did is I did for the comfort of my customers, for the comfort of my non smokers.

LEG. FOLEY:

Basically it was smoke eaters? Was it a separate room as well?

MR. EGAN:

It's a separate room, but it's not a totally enclosed separate room like you would get in a diner, because I didn't fall under those restrictions. I don't do the type of food --

LEG. FOLEY:

So basically it was voluntary.

MR. EGAN:

That was voluntary on my part, yes.

LEG. FOLEY:

Okay. Let me just go on for a moment. We're supposed to ask questions as opposed to --

MR. EGAN:

Go ahead. I have to pick up my son at 4:30 at the bus.

LEG. FOLEY:

-- as opposed to making a statement. But you mentioned how at least none of the -- none of your coworkers at your establishments have voiced any concern about the health effects of working in that environment. I'll have to put this into a rhetorical question. But are you not aware -- are you not aware that there are a number of workers within your industry who are very concerned about breathing in second hand smoke? And furthermore, are you not aware that a number of them while they may not be here today, have spoken to this Legislator and have spoken to a number of other Legislators about why they support the bill?

D.P.O. POSTAL:

There's a question coming.

LEG. FOLEY:

That's right. Those are. Are you aware?

MR. EGAN:

I'll answer that question. I'm not a professional. If I was, I probably could have gotten a staff to list 20 occupations that weren't totally safe. As I said at the Health Committee meeting, if you don't -- if you don't like fire, don't be a fireman. And if you don't like heights, don't be an iron worker. There is no totally safe job. They try to reduce the hazard of being an iron worker by the harnesses and everything, but there's still -- there's a small chance that these guys might fall. I've tried to reduce ever hazard possible for my bartenders. I've done what I think is right. They've made the choice to work there. And I mean, I can't -- I can't say any more. I can't reduce the hazard any more.

LEG. FOLEY:

But aren't you -- aren't you also aware that there are those within your industry whose job is within your industry and that's the only job that they can find in order to pay the bills? One of the things that we're hearing is that they can go somewhere else to find another job if they don't like working in an atmosphere that has carcinogens where they breath in every day or every night. But I think we both know whether it's the single mother or the single parent or others that this is their livelihood, they like where they're working other than the fact that they're breathing in these carcinogens everyday.

MR. EGAN:

I understand what your saying. And you're posing a question that there's no answer for. They are people that want to be doctors or nurses, there are germs in the hospital. As much as you try, there's always going to be a small hazard. And I don't know what to say to those workers, I don't have all the answers. We try our best. We've put our money where our mouths were, and we've tried our best to reduce of hazards for our employees. Then it's their choice.

LEG. FOLEY:

So you would agree -- you would agree then that there are those within your industry who are concerned about the ill effects of second hand smoke and who would, in fact, want to see this legislation pass?

MR. EGAN:

I would agree that there are people in every industry that have concerns about -- that are concerned about the hazards of each individual industry. Mine is into different than any other industry.

LEG. FOLEY:

Thank you.

D.P.O. POSTAL:

Thank you very much. Our next speaker is Theresa Cassiack.

MS. CASSIACK:

Sorry I wasn't here before, I was in the ladies room. So my name is Theresa Cassiack, and I'm the public health project coordinator for NYPIRG, which is the New York Public Interest Group. And we are here to oppose Legislation 2103. NYPIRG feels it is a piece of Trojan horse legislation that won't protect the public health, which is probably why the tobacco industry is so willing so support it. And it is a phoney alternative to a public health initiative. And our recommendations is, you know, given the overwhelming evidence that exposure to second hand

smoke poses grave health risks, including death and disease to non smokers, a smoke-free work place law is the only law that can protect all workers and residents. One fact that I've always found quite interesting while rather discerning was in 1991, the American Heart Association published a paper concluding that second hand smoke was the third leading cause of preventable death in this country. And that for every eight smokers the tobacco industry killed, they took one non smoker along with them.

So this is the only piece of Legislation -- 2020 is the only piece of legislation that will particularly help restaurant and bar workers as well as members of the public. And moreover, smoke-free work places will help the seven in ten smokers who want to quit smoking by providing them an additional environment free from of pressure and the temptation to smoke. And the Surgeon General has stated that clean indoor air laws that prohibit smoking have been shown to decrease daily tobacco consumption and to increase smoking cessation among smokers. And I've actually written a paper, a policy paper, with my boss Blair Horner which has all of this information documented in it and footnoted. And in addition to helping the health of workers, there's a broad public support for a ban on smoking in work places. The United States --

D.P.O. POSTAL:

Can I just interrupt you for one minute? I'll stop the clock. This is a public hearing on a different resolution, it's Resolution 2103. You're speaking on 2020.

MS. CASSIACK:

I'm opposing 2103 and making a case for more stringent legislation that's more comprehensive.

D.P.O. POSTAL:

Okay. Okay.

MS. CASSIACK:

So may I continue? So -- and in the United States, 42% of smokers and 83% of non smokers prefer to eat in restaurants that are smoke-free. In California, over -- over 73% of bar patron said they approve of the law. And based on the California experience, we found that a ban on all -- on smoking in all bars and restaurant can work. So the science is crystal clear. And government policy must be based on that science. So NYPIRG urges the Suffolk County Legislature to oppose 2103 and to support a stringent and comprehensive law such as 2020 and ban smoking in all restaurants and bars and work places. Thank you.

LEG. HALEY:

Question.

D.P.O. POSTAL:

Legislator Haley.

LEG. HALEY:

You know what? I'm going to pass.

D.P.O. POSTAL:

No. I have -- thank you very much. I have no other cards on this public hearing. Is there anyone else who would like to address the Legislature on 2103? Are you coming up to speak on this public hearing?

MR. RYERSON:

I think you might have had me confused before with my compatriot over there, but I am John Ryerson.

(SUBSTITUTION OF STENOGRAPHER - ANA GRANDE)**MR. RYERSON:**

Just one thing, as far as all of this being crystal clear --

D.P.O. POSTAL:

I'm stopping the clock. The other gentlemen, we need to know your name because I thought you were John Ryerson and the stenographer has taken your name as John Ryerson. So if you would just give your name to a staff member. Nanette, can I just ask you if you would go get that gentleman's name and give it to --

MR. RYERSON:

Bill is sitting right here. You're me.

D.P.O. POSTAL:

All right. Nanette, you don't have to go, Ilona's doing it. Okay.

Mr. Ryerson, go right ahead.

MR. RYERSON:

Chairman, Board of Directors, Suffolk County Restaurant and Tavern Association, also MacGuire's Restaurant and Comedy Club in Bill Lindsay's district. To quote Harry Bellafonte, at far as this thing being crystal clear, it's clear as mud, but it covers the ground. I don't know how much more to add to what Bill has said, Bill Leudemann and Rich Egan has said. We've all been saying this all along.

I am addressing 2103. I thank you very much for sponsoring it, Martin. I think it does the job for us. I would just like to know why everybody thinks that this was sponsored with the help of the tobacco industry. I don't believe that you consulted anybody in the tobacco industry when you sponsored this bill. And I don't know why we're continually associated with the tobacco industry or with their money. We do not have full page ads in Suffolk Life, we do not have full page adds in Newsday. As a matter of fact, when I placed an add for my own restaurant, I am

not even given privileged locations, what you get is what you get. But I have been in -- I have had the privilege of sitting with someone who does work for the anti-tobacco lobby here, and I overheard them to say to Suffolk Life, you move that ad up, and it was moved up. It moved from the back of the paper to page five in the next week.

We don't have this kind of money, we're not getting money from the tobacco industry. We don't have that money for buttons. We're local businessmen. Most of us own one business, I think Jeff said he owns two. Maybe one of our other members might only two or three. We're small businessmen, we're not large corporate entities. We may have some members here, but 99% of us are small businessmen, and we believe that this law is going to hurt us.

I just want to make one comment to everybody that's here as far as the Legislators that I spoke to personally, I'm not go to reiterate all this information, I just want to thank the Legislators that met with me personally, Angie, I know that I met with you, some of you I did not -- I know I didn't meet with you Martin, but some of my other members did, Fred Towle, I want to thank Brian Foley, my own Legislator Bill Lindsay, I also want to thank Mr. Binder, where is he? He's around here some where, Allan Binder and particularly, Jon -- Jon Cooper who met with me be a month ago and assured me that he was against this bill in its present form but would come up with some legislation of his own. And I would look forward to seeing that, Jon, and I appreciate your help in this matter.

D.P.O. POSTAL:

Any other questions?

LEG. HALEY:

Thank you.

D.P.O. POSTAL:

Thank you. Legislator Alden.

LEG. ALDEN:

I just have one question. When you refer to he's against this bill or this legislation, you're speaking on Marty Haley's bill, 2103. That's not really what you meant to say then, is it?

MR. KERR:

Actually, you're right, Cameron. I was referring to 2020 and probably that was inappropriate at this time.

LEG. ALDEN:

But you're in favor of 2103.

MR. KERR:

I am in favor of it, yes.

D.P.O. POSTAL:

Thank you, Mr. Ryerson.

MR. RYERSON:

Thank you.

D.P.O. POSTAL:

Is there anyone else who would like to speak on this public hearing? Come up.

AUDIENCE MEMBER:

Is this the proper time to address the Ephedra issue?

D.P.O. POSTAL:

No, if you would like to -- this is time for public hearings. If you would like to speak on that issue, you should get one of these yellow cards and fill it out and make sure it comes up here.

MR. THOMPSON:

Hi. My name is Bill Thompson, and I'm actually from the American Heart Association.

D.P.O. POSTAL:

Can you just speak into the microphone?

MR. THOMPSON:

Yeah, I don't know if it's on. I'm just here to also oppose this bill, 2103. And the American Heart Association and other major health organizations oppose it for a reason. We're not just up here for -- to wave our hands in victory if something in public health gets passed. It's because

of the signs that's behind it, it it's because of the volunteers that we have, it's because of the cardiologists, the physicians and those who come around the table and study -- study -- what -- what the effects are. And I just wanted to say that there are -- there is evidence that 37,000 cardiovascular deaths are associated to secondhand smoke.

And there is mounting evidence that shows even 30 minutes of exposure of secondhand smoke increases your risk for cardiovascular disease. And I also wanted to say that I do understand why people may be a little bit nervous, you know, as far as the tavern owners and things like that, and I do feel for them. Unfortunately -- or fortunately, it has shown that it has not effected businesses, but I will also say that there are reasons why things are legislated, and things are legislated in businesses all the time. And I would also just want to say one more thing, and that I would wonder how many of the restaurants and the bars actually offer the health insurance to their employees. And is that a drain on the County when we're talking about Medicaid and charity care in these hospitals when they're getting sick because of the secondhand smoke? That's it. Thank you.

D.P.O. POSTAL:

Thank you. There's a question from Legislator Alden.

LEG. ALDEN:

Hi. Thanks for coming down. Do you know what's in 2103?

MR. THOMPSON:

Yes, I do.

LEG. ALDEN:

It's -- basically it's -- from my understanding of the bill, and I haven't ready it or studied it greatly, I've ready it, but I haven't studied it greatly, it would provide notices. You're against providing notices to the public that there's a possibility of encountering secondhand smoke? You're against that?

MR. THOMPSON:

What we are in favor of is making --

LEG. ALDEN:

No, no, no. Not what you're in favor of. You're against that. Because you're speaking about the bill --

MR. THOMPSON:

We're saying it's not going far enough. So, yes, we are against it, because it's not going far enough.

LEG. ALDEN:

Good. You're against providing notice to the public that there's a possibility they will encounter secondhand smoke. Thank you. Thank you.

D.P.O. POSTAL:

Thank you. Is there anyone else who would like to speak on this? Hold on. Legislator Foley.

LEG. FOLEY:

Just as a follow-up to Legislator Alden's question, would you like to amplify your answer or add to your answer to at what Legislator Alden had mentioned?

MR. THOMPSON:

Well --

LEG. FOLEY:

You said you're opposed to the bill because it doesn't go far enough.

MR. THOMPSON:

Right.

LEG. FOLEY:

And I think someone can ask the question, well, what's wrong with -- what's wrong with simply notifying the public of whether or not there's smoke. I think we all would know whether or not there's smoke in a particular establishments, but, you know, what's wrong with notifying people, why isn't that something that you would support, notwithstanding the fact that it wouldn't make one iota of a difference of saving a life as far as those who work within that particular facility? But why would you still oppose it even though it's as Legislator Alden mentioned, it's really to -- you know, to notify the public about that particular establishment?

MR. THOMPSON:

Well, I think that there's a couple of reasons. One of them that it's not -- they haven't necessarily been educated. The other piece is -- the main piece is you're still allowing it in the workplace, and that's where the people are exposed to it a lot of times, ten hours a day, six days a week, over long periods, you know, year after year after year. And it's just something now with the mounting evidence that, you know what? You take a look at -- just like you took a look at asbestos and said, you know what, it's just not needed in an enclosed public area where people are working all the time. And that's why we're saying that the bill doesn't go far enough, and that we do oppose it.

LEG. FOLEY:

Thank you.

D.P.O. POSTAL:

Thank you. Is there anyone else? There's someone in the back, I see a hand. Come on up. And Ilona, will you just pull the microphone down for this young lady. And young lady, just tell us your name and then you can speak on this issue.

MS. SCHAGEL:

My name is Jenny Kate Schlagel, and I think -- I oppose the bill 2103.

And my health teacher helped me with this, and on Halloween I went around with a petition to not have smoking in bars and restaurants. And I think so because the people who made the right choice should not be effected by people who made the wrong choice.

D.P.O. POSTAL:

Thank you very much.

LEG. HALEY:

Thank you.

D.P.O. POSTAL:

That was an excellent statement.

MR. CUSACK:

Can I speak, please?

D.P.O. POSTAL:

Sure. Come on up. Just give your name. You haven't spoken today on this public hearing, have you?

MR. CUSACK:

No, I haven't

LEG. NOWICK:

She's a tough act to follow.

MR. CUSACK:

Yes, very tough. I think she was very good. My name is Jerry Cusack, I run Brennan's in Hauppauge, and I'm a member of the association. I think a few things concern us. First, I'd like to tell the young lady and the Boy Scouts, please, do not smoke and do not have the perception that restaurant owners, men and women, encourage smoking.

I have to tell you I sat through every meeting, not only this year, but going five, six, seven years ago, and I'm certainly not attacking any Legislators, but we feel our industry gets attacked. Because again, like what my peers said, we're not up here to promote smoking, but we are up here to tell you the difficulty in 2002 to run a small business. Now, whether they like it or not, no one in my organization is being paid to come here today or when we showed up for the Health Committee or when we showed up for other meetings. We're here because we're concerned. You've heard both sides of the argument, so I don't want to bore you with my position, but I have to tell you as Legislators, the people from -- I'm sorry.

D.P.O. POSTAL:

I'm sorry, go ahead.

MR. CUSACK:

Some of the antis are getting paid for doing this, and this is their job. And certainly I am not going to stand up here to try to get them to understand what we go through as a small business person, but I am up here to talk to the Legislators, because we are Suffolk County, you are Suffolk County and you should or -- I think -- I like to think you do have an understanding of

small business people. And I say this because when this is voted on whether today or whether it gets tabled and we have to come back again next week or next months, we'll be here, the same group opposing this, they are in Nassau County, because I've been there, they are in New York City because I've been in there. They do go up to Westchester. And I'm sure they're fight for what they believe in.

But like I said to you Legislator Foley at the Health Committee, what happens if we're correct and they're wrong? What happens if this does cripple the small business person? I echo what one of my peers said. Several places years ago, I had several calls a month of people that wanted to either go in business with me or wanted to invest in this county. I don't get this anymore. I don't discourage them because I love Suffolk County, and I believe in Suffolk County, but when we told our members the deal that we agreed on, the compromise, and we tell them it's no good now, well, I guess my question is well, what happens if this does cripple small business. I can't expect the people from the Heart Association or the Lung Association to know what it's like to say, gees, I've got to pay LIPA \$6000 this month. They leave here, they go in their cars and they go to another county. But as Legislators, you represent all the people. And what I ask you today, we do support 2103, not that we support smoking. We keep hearing about Big Tobacco. We don't get a dime from them. I don't know is I don't know where the cause of all the problems. But just I know there's going to be more discussions on that later today. I would just hope that the Legislators would understand what the people opposing do not. Thank you.

D.P.O. POSTAL:

Thank you. Our next speaker on this public hearing is the Honorable Roger Corbin, Deputy Presiding Officer of the Nassau County Legislature, Chairperson of the Health Committee of the Nassau County Legislature.

LEG. HALEY:

I'm going to Nassau

D.P.O. POSTAL:

And Nassau County Legislator. Hello, Roger.

MR. CORBIN:

How are you doing. Maxine?

LEG. HALEY:

I have a question.

MR. CORBIN:

You know, it was a pleasure this morning listening to your debates on overriding the County Executive's veto. We tried to do that last year and we weren't successful. Apparently you don't have a Tom Gulotta here, and maybe that's what you need. But it was interesting, because when I was looking at my colleagues in government here in Suffolk County, I was sort of like putting a face of our opposite sides to some of you. I mean, I told -- I told -- I think Allan is standing outside, that's your Peter Schmitt, Allan Binder. And I was just trying to put faces --

LEG. HALEY:

There's two of them?

MR. CORBIN:

Yeah. But in a more serious sense, you know, I believe -- I'm talking about the bill, this bill that's before you, obviously I'm opposed to. The bill that's going to come in front of you tonight, obviously I'm for. I think what we have to do as elected officials is to look at the health and welfare of all of our citizenry that we represent. The good thing about you here in Suffolk County, you fought the County Executive in terms of human cuts for the community based organizations.

Now, we don't want you to get schizophrenic and say, well, I'm not for those cuts, but I'm for those who are smoking by choice, those who work in bars and restaurants, and you're going to hear the restaurateurs and the bar owner's come to you like they did in Nassau County and say I'm going to lose business. And I want you to think of this, many years ago, you could smoke on the Long Island Railroad. And when you go on the train in the smoke cars, you didn't see very many people. But there was few people in there and the car was filled with smoke. You can't smoke on the Long Island Railroad, you still take it. Many years ago you could smoke on airlines, it was a choice, but you can't smoke on the airlines any longer. And it goes on and on and on.

I look at our population on Long Island that's changed, the diversity, and that's why the politics

have changed in Nassau and Suffolk County. We have a heavy immigrant population. There is no choice for them in terms of employment, so why -- we as law makers, why would we make somebody have a choice of going in to polluted air that inevitably is going to kill. Now for all the fiscal folks that are looking at the economic side, health costs, isn't that economics? I mean, it costs you a tremendous amount of money to take care of the poor and the indigent, something that you fought against your County Executive, for cutting the human community based service organizations. The health costs is going to cost this County a tremendous amount of money.

I mean this argument, we should not be doing this on the local level, shame on Albany, shame on those upstate, and I say upstate Senators that refuse to deal with this. They talk about the economy is bad in upstate, well, after the tobacco lobbyists get through, the economy must be good for some of the upstate Legislators, because they are sure making a killing, and they're not looking out for the welfare of the citizens. And we on the local level must access that of which we're doing in terms of protecting our citizenry.

I think for all of you, this is a tremendous step forward for the lives of human beings. Whether they get this, there's choice. There is choice for a lot of things. There's choice, you can be an alcoholic, there's choice you can be a substance abuser, there's choice you can be a criminal, but there's penalties. But when you deal with secondhand smoke, there is no choice. A mom that is trying to take care of three kids, and she may be a waitress in a restaurant, someone who is working at a bar, a bartender, he may -- he may have an extra job, they need to pay the taxes in Suffolk County and they need to pay the taxes in Nassau County and they need to pay the taxes in New York. Why should we subjugate them to the poison that they're going to breathe and subsequently wind up in the hospital? Yes, it's long term, and none of us will be in office by the time their lungs and their throats and their stomachs and all their organs give out. We probably won't be in office.

So the decisions you make today, I think as local elected officials, you're doing a great deal for the citizenry of Suffolk County. And I'm hoping that this body looks at it in terms of health and welfare of people. Now, like I said, the restaurateurs, I understand it, my wife and I, we go to the restaurants in Nassau County. We have three favorite diners and they all told me, they said, well, you know, we understand what you said, we built a smoke room. But I said you know what, Nick? Let me tell you something, George, you guys are going to make more money because you're there not for smoking, you're there for the food and the ambiance. And when I look at the smoke rooms in these diners, there's very few people in there.

And then the other thing is, how do we protect our children? What if you have an irresponsible guardian and they bring children in there? And I've seen it. How do you protect them? You can't smoke in open stadiums in America any longer. So I think this is a fantastic bill. I commend Legislator Foley and Legislator Fields for sponsoring this and many of -- all of you who signed on. And those who haven't, who have some ambivalence about it, I suggest strongly that you look at -- you look at this and say, you know, I'm going to protect the lives of people. And that's what this is all about, the lives of people. And I think if you do that, you will have left a legacy here in Suffolk County and on Long Island.

My friends in the city are going to do it, but they're involved in other issues. And I told the Mayor that we ought not to get involved in other sidebar issues, we should just stick to saving the lives of people and those in Westchester County are going to do it

D.P.O. POSTAL:

Roger, I'm sorry, I have to interrupt you because your time is up, but there are some questions.

MR. CORBIN:

Okay. Certainly

D.P.O. POSTAL:

Legislator Fisher.

D.P.O. POSTAL:

I have you. I have you. She asked way -- I know.

LEG. HALEY:

I asked when he got up, before he even spoke

D.P.O. POSTAL:

Legislator Fisher, will you yield?

LEG. FISHER:

I'll yield to Legislator Haley, it's his bill

LEG. HALEY:

We're here on my bill, Legislator, not on Legislator Foley's. We're talking about that one, and I would assume that you're opposed to my bill.

MR. CORBIN:

Yes

LEG. HALEY:

Is it not true that -- first of all, are you Chairman of the Health Committee?

LEG. HALEY:

Yes, I am

LEG. HALEY:

So you're our Brian Foley?

MR. CORBIN:

I'm Brian Foley. Yes. We look alike, we're twins

LEG. HALEY:

You not only look alike, but you're almost as verbose as he is.

MR. CORBIN:

Yes. That's a compliment.

LEG. HALEY:

I had an interesting conversation the day before election with a Democratic Legislator, I won't drag people's names into it. There was very much concern that Suffolk County might not pass the ban on smoking, because it would put Nassau in a precarious position. This Legislator said to me that -- as a matter of fact, it was not only this Legislator but another Legislator's aide that was there from another office, that it sent out a number of post cards and tried to poll, if you will, their constituency, and they said they got very little response to that, but yet they found it appropriate obviously, because it passed, to pass that ban on smoking in Nassau County.

But they also said that after that vote that they received quite a number of phone calls, all right - and obviously these were democrat -- Democratic Legislators, because they're the ones that passed it -- quite a number of calls saying, why did you do that. In other words, there was a reaction to that vote. And I know that you are in a precarious position, because New York has not made its decision yet, Suffolk County has not made its decision yet. But while we're talking about what we call -- what I call the freedom of choice and the interest of putting things in the form of a question, if we were to ban smoking in total in all work places, and by the way the railroad -- the railroad -- I liken the railroad a little bit different than a private establishment, the railroad is public transportation, I differentiate between what I believe is a private establishment and public places, and I agree with --

D.P.O. POSTAL:

I know there's a question coming

LEG. HALEY:

I know. It's coming, it's coming. No, it's all right. I editorialized. That it's. All right. Thanks. My question is when you talk about the health of many, you support -- obviously there's another bill on the table for vote tonight to ban smoking in all restaurants and taverns, would you agree with taking it a step further and banning smoking in cars where children are passengers?

MR. CORBIN:

You were talking to Legislator Binder

LEG. HALEY:

Binder, Binder

LEG. BINDER:

Whatever. We talk every once in a while.

MR. CORBIN:

Yes, you do talk. You know, when you say in cars, what's the next step? I mean, I think that --

LEG. HALEY:

Thank you.

MR. CORBIN:

I think -- I think -- no, I honestly believe, you know, we're talking about the workplace. And I think the workplace is -- is applicable to what the bill will be before you tonight, and we're not talking about cars and your home and various other places. So I really can't deal with that -- that question. You know, I mean it just sounds good that you shouldn't smoke in your cars with a kid in your car. I wish a lot of citizens didn't smoke in their cars. But I don't think you can legislate that.

LEG. HALEY:

I'll pass for now. Thanks

D.P.O. POSTAL:

Okay. Legislator Fisher.

LEG. HALEY:

Thank you

LEG. FISHER:

Thank you. Roger, thank you for being here today, we appreciate it. As one of the speakers, one of the restaurant owners said, he believes that some of us really care about their position as small business people. And we understand their passion, because this is their business, this is their livelihood, this is what puts bread on their table. And he said you can roll the dice and be philosophical. If we roll the dice and it's the wrong way, it's our livelihood.

And we certainly have a great deal of empathy for that and understand how serious it is for them. I'm sure that you also face this in Nassau County and thought long and hard before you voted. Can you tell me what kind of data or extrapolation of numbers there have been to try to determine whether or not you would be injuring the small business people?

MR. CORBIN:

Well, we -- thank God we had Will Stoner and we had some other experts come to us. We even had an expert come from San Francisco. And as you know, San Francisco, the bars and restaurants are smoke free. It was their opinion, and they based it on fact, that they did not lose business, business increased. My daughter goes to school in Delaware, she's at Delaware

State University, and Delaware is a smoke free state. And my wife and I when we go down to visit her, and we go into bars and restaurants, there's no smoking in there, and these are sports bars and restaurants, and the place is packed.

So I don't believe the correlation between smoking and drinking and eating, that restaurateurs or bar owners are going to lose money. I don't believe that. And I don't have a bias. I don't smoke, and I don't have a bias towards that. I think tobacco is one of the toughest drugs on this planet, and I think the tobacco industry has lied to all of us. And those Legislators that don't believe this, then I would -- I would challenge them, don't take the tobacco money. And I heard securitization of tobacco money this morning, and at one hand, you're going to take the money, and at the other hand, you're not going to protect the public. So I don't think there's a correlation between that.

LEG. FISHER:

Okay. Mr. Stoner spoke here last month.

MR. CORBIN:

Yes

LEG. FISHER:

So we have heard the testimony. And one of the small businessowners said that although those statistics -- by the way, my sister died of lung cancer.

MR. CORBIN:

Sorry

LEG. FISHER:

Five years ago. And so smoking is something that's very abhorrent to me.

MR. CORBIN:

Right

LEG. FISHER:

But my personal feelings notwithstanding, I want to make sure that we're protecting the interests of people who have to make a living here in Suffolk County as well. And so my

question is this, last month one of the owner's said that although there were as many people as customers in the restaurants, that they were people who were consuming more food as opposed to more alcohol, and so the bottom line was lower, that they were not making as much money because there's more money tobacco made in alcohol sales than in food consumption. Have you seen any of those statistics?

MR. CORBIN:

No, I haven't. I've heard that argument, and I don't buy it. I don't buy it. I think you can do anything you want with statistics. I think --

LEG. FISHER:

Well, that was their argument actually, that you can do anything you want with statistics.

MR. CORBIN:

What I'm saying, Legislator Fisher, I think the bottom line is the health and welfare of people. Eighty-two, eighty-two percent of Americans do not smoke. Eighteen percent, the tobacco folks are making a strong argument for eighteen percent of the citizens who do smoke. And those who do smoke, I don't know if we politically want to deal with the health and welfare of those citizens who are indigent, who are per diems, who don't have any medical coverage. And I know that debate is not in this debate, because it's so far in the future that you can't connect the two. It's just like AIDS and HIV. And I tell young people all the time, you can't connect the two, because it takes a long period of time. So I think the decision that we make today protects the lives of those who may not understand this stuff, and I think that's our job.

LEG. FISHER:

Okay. Just one other question. Delaware is a completely smoke free state?

MR. CORBIN:

Yes, it is

LEG. FISHER:

Because as a non-smoker, I would patronize these establishments.

MR. CORBIN:

Yes. And so is Florida, by the way. They passed it in the referendum

LEG. FISHER:

Florida as well. Okay. And Delaware has the same climate as New York.

MR. CORBIN:

Yes

LEG. FISHER:

And San Francisco, by the way, very cold.

MR. CORBIN:

Very similar

LEG. FISHER:

Okay. Thank you, Roger. Good to you have you here.

MR. CORBIN:

Thank you

D.P.O. POSTAL:

Roger, would you just beg our indulgence for a moment. We have a troop of Scouts here, and I would like to recognize their Legislator, Legislator Andrew Crecca.

LEG. CRECCA:

I just want today say that they have been the most attentive audience members I've seen, not just among youths, I see some of the adults, no offense, guys, nodding off a little bit in between. These guys have been very alert. I will let you know my fellow Legislators too that we were discussing -- I told them what they were coming in to, and I told them we were discussing the possible ban of cigarette smoke in bars and restaurants. And we actually had opinions from both sides of the issue from these fifth graders, they're Weblos. They belong to Pack 328, which is in the Smithtown-Hauppauge area. And you guys have been, very, very attentive, but you have suffered long enough. They've been here -- they've been here about forty, forty-five minutes and they're here as part of their Civics and Government requirements for getting one of their merits badges. So I want to just recognize, would you guys just stand up for a second, I

recognize Den Number 7.

APPLAUSE

LEG. CRECCA:

Thanks guys. And thank you for your indulgence, Legislator.

MR. CORBIN:

Thank you

D.P.O. POSTAL:

Thank you, Weblos. And I hope you'll come back again. We're going to continue with the questions. Legislator Haley

LEG. HALEY:

Are you working on a list?

D.P.O. POSTAL:

Yes, I am. Would you like to go on the list?

LEG. HALEY:

Yes, please. I just have one simple question -- as a matter of fact, it just relates to the last statement on Florida.

D.P.O. POSTAL:

Well, let me ask. Legislator Foley is next, if he would yield to you for your question

LEG. FOLEY:

Yes

LEG. HALEY:

I understand that that referendum in Florida excluded barrooms, do you know that?

MR. CORBIN:

No, I don't

LEG. HALEY:

I believe that that's the case. So it's something we need to check out. Thank you.

MR. CORBIN:

Okay

D.P.O. POSTAL:

Legislator Foley

LEG. FOLEY:

Thank you, Madam Chair. And Legislator Corbin, I thank you for your attendance here today and for extending every courteous to me and to Legislator Fields when we had a number of meetings in Nassau over the last number of months, where Westchester, New York City, Nassau and Suffolk officials were present in order to develop a regional approach to this public health menace, and it is a menace. And it is one that none of us should -- should attempt to gloss over. Your thoughts and your expressions of support today, Legislator Corbin, for those who are looking at this in an objective way, I think cannot help but be move and hopefully persuade by what you've said so far.

What I'd like to do for a moment is get into -- it's an issue related to this, and it's important from the perspective of how legislation such as the legislation that you and I have been discussing that's on the docket for tonight that was passed in Nassau, on how important that legislation is to combat something else

D.P.O. POSTAL:

And you will ask a question

LEG. FOLEY:

I will in a second

LEG. TOWLE:

I doubt it

LEG. HALEY:

Relative to my legislation

LEG. FOLEY:

The question is coming. Could you -- or at least we could say could you make us aware -- could you make us aware of how legislation that has been proposed and that has passed in your County helps to combat the manipulative strategies that Big Tobacco has -- has targeted in our minority communities? And I think it's important for -- for our County to hear from your perspective as a Legislator, your perspective as a Health Committee Chair and of communities that you represent on how legislation -- how our legislation can help combat Big Tobacco's manipulative approach towards minorities and replacement smokers among the minority community.

MR. CORBIN:

No question, Legislator Foley. In our communities in Hempstead, Westbury and Lakeview and Roosevelt and Freeport and Uniondale, the tobacco industry has targeted our kids. And they use this as a strategy to hook many of our youngsters in high school, in middle school -- the middle school. And our legislation will stop that. And we've introduced legislation prior to the big legislation that we introduce in terms of you can't have tobacco products and herbal products near candy, you can't have tobacco products and herbal products near drinks, fruit drinks, anything that will affect the lives of our youngsters. And that's how we combatted the influx of tobacco to try to hook our kids.

And you would be doing a service out here in Suffolk County doing the same thing. And we also -- and many of my colleagues here in government got to realize we have a large immigrant population. And the tobacco industry has really, really targeted that community, and it's our fiduciary responsibility to protect them.

LEG. FOLEY:

Thank you.

D.P.O. POSTAL:

Thank you very much, Roger.

MR. CORBIN:

And thank you. And this is the first time I'm here in Suffolk County, and we invite all of you to

come to Nassau County

LEG. ALDEN:

How do you like it so far?

LEG. HALEY:

I'll be there.

MR. CORBIN:

I think you guys are all right. You know, I mean, I like what I hear and I like what I see. You have good debate. And I always say in this country it's always good to debate as long as you don't get personal, because that's the -- that's the business of politics is to have debate on the governance of our people, and I like that.

LEG. FOLEY:

Thank you.

LEG. CARPENTER:

Legislator Corbin, you said it's the first time in Suffolk, you meant at the Legislature.

MR. CORBIN:

In the Legislature, not in Suffolk. I've been here before.

LEG. CARPENTER:

Because I'm sure that you come here to shop for your clothing.

D.P.O. POSTAL:

Roger, thank you. Thank you very much

LEG. TOWLE:

And he'll be able to continue to do that too.

D.P.O. POSTAL:

I know that we're all very happy that there is a Legislature in Nassau County, because we know the County Legislature is true democracy and the most open form of government. We're also

really happy, because once the Nassau Legislature came into existence, a great deal of the media coverage went over to you guys. So thank you very much, and thank you for your testimony here today.

MR. CORBIN:

Thank you.

D.P.O. POSTAL:

Now, there are no more speakers on this public hearing. Legislator Haley, motion to close?

LEG. FISHER:

Two more

D.P.O. POSTAL:

There are two more. Three. When you come up, just give your name. This lady is on the hearing on 2103.

MS. BENSON:

My name is Mona Benson. I wasn't going to speak earlier, but I wanted to congratulate Legislator Haley on 2103. What Legislator Foley has -- I'm a non-smoker. I tend -- I go to bars, I go to restaurants. And I feel it would hurt the taverns and the bars in their businesses. And, yes, and you sit there and say about single mothers and the only choices that's they have, I'm a single mother. You have plenty of choices on where you can work and where you can make money.

People know when they go to bars that it's smoking. Legislator Ginny Fields brought up the restaurant. If we had more restaurants that came in on their own and decided to be smoke free, that is fine. But I feel you'll be pushing out the taverns, the small businesses. They do not earn their money on food, they earn their money from people going there drinking. Part of drinking when people go there, they do smoke. You have the choice of going. And for them to bring in the guy from Nassau County, Nassau County wants Suffolk County to pass this, they want New York City to pass it. They on their own with Executive Suozzi said that we're going to pass it for now, because he's waiting to see what New York City does, what Suffolk County does. If Suffolk County doesn't pass it, Nassau I feel will reappeal, because they know that people are going to go to the bars in Suffolk County, to the bars in the city. They travel into there. They look at it,

and they're saying they have the taxes already.

We don't have taxes on our clothing. People come from Nassau and go into Suffolk to shop, because we don't have tax on our clothing. They go into the City, because they do not have tax on their clothing. It hurts businesses. If you want to help businesses, help them so that they can give their employees medical insurance, help them in other ways so that way they won't be dependent upon services.

But I feel we'll see many taverns close down, many small businesses. Yes, we'll still have Houlihan's and all these other bigger companies, because it's not really going to affect them. You're going to be affecting the small businesses. He brought up Florida, I go to Florida often. You can smoke in the bars down there, you can smoke there. You can still smoke in the restaurants. Parts of Florida, they're not as modern as we are up here in New York. You can smoke anywhere you want to when you go into IHOP.

And as far as hurting the minority communities, you're just using that as an excuse to help pass, I feel, a bill that is imposing upon people that want to smoke. People that don't want to smoke don't have to go to a bar, they can stay at home and drink. Just like Ginny Fields smoke about that restaurant, there are alternative choices. Let these bars decide on their own if they want to make these alternative choices for their employees. There are plenty of other places. And to harp and say that these immigrants and single parents need to be bartenders, they need to be waitresses, and that you're infecting their health, it's totally wrong and ludicrous. There's plenty of other fields where they can make good money on just a high school education, since you're trying to say that they're not educated enough on your underlining tones to get a better job.

You're imposing on the community. Legislator Foley, I don't know what you were thinking about as good legislation, you're hurting small businesses. The same way Home Depot came in and Lowes came in and let down the small businesses, we don't have anymore small mom and pop hardware stores. They closed down, because big companies came in. Big Tobacco is not supporting the taverns and the bars, it's the people that go there. And they tell you they go there for one reason, to see their friends. Yes, they're smoking, but not every place is so packed with smoke that you can't breathe. If you don't want to be there, do not go there. I thought this was America where you had a choice to decide whether to smoke or not to smoke, a choice to decided on whether you want to go somewhere where there smoke is.

What Nassau did was wrong, and they will see -- if we wait, they will see repercussions as their small businesses are going down. That means unemployment is going to go up, you're talking about worrying about these people, they're going to be on our payrolls where you're going to have to sit there and subsidize them. Help them in other ways. Give the tavern more incentive to say, you know what, we know your employees need healthcare. Let us use this money and help to you subsidize them for healthcare since you're so worried about their health. Since there's not going to be any smoking, they still don't have healthcare. Everybody always goes for big companies, you're talking about Big Tobacco? Legislator Foley is supporting big business to take over from our small little taverns and for the big -- and for bigger -- for bigger places to be, and where are we going to eat? I don't want to go down to Dave and Busters or Houlihans. Sometimes I want to go down to my local bar and have a drink with people that I know. It won't be there anymore.

If you're worried about people, then start legislating about drinking about little kids and them smoking, that's not going to control it. They don't go to the bars to smoke, they don't go to the taverns to smoke. They're not going to get it from there. So I think we really -- if you're going to vote on it tonight, you need to put serious thought and think about what your constituents want, not what you want.

D.P.O. POSTAL:

Thank you

MS. BENSON:

Not what physically is important to you and what you might affect, what your constituents truly want. And I don't believe they want a smoke free environment

D.P.O. POSTAL:

Ma'am. Ma'am, I'm sorry, your time is up, but there are a number of questions.

MS. BENSON:

My name is Mona Benson.

D.P.O. POSTAL:

Ms. Benson, Legislator Fields has a question.

LEG. FIELDS:

Hi, Mona, thank you for coming. I have a couple of questions. One point that you made twice that I heard was that if we don't pass the bill that Legislator Foley has -- has created, that it will help give those bar and tavern owners the ability to buy health insurance for their employees.

MS. BENSON:

I'm not saying --

LEG. FIELDS:

Why have they not bought health insurance for their employees prior to now since the bill has not been enacted?

MS. BENSON:

My mother has a small business, it's expensive to pay out health insurance for our your employees --

LEG. FIELDS:

How will it be less expensive?

MS. BENSON:

I'm saying that it would be. I said if you want to help them, make incentives so that way they can get health insurance for their employees that work there. Have some other way -- you're so concerned about their health, having a smoke free environment, there's still other dangers in the world. We have a high cancer rate on Long Island. I don't see you going after LIPA and after all these other electric company that's they see and trying to help us with that. That is a problem, cancer is a problem on Long Island.

LEG. FIELDS:

Okay. But we don't know the cause of --

MS. BENSON:

We know what the cause is, but we're hiding it.

LEG. FIELDS:

Okay. I'm not going argue that with you.

MS. BENSON:

But I'm just saying, if you really care --

LEG. FIELDS:

You also made a statement that bars are going to close, that you won't be able to go to the bar anymore that you want to go to --

MS. BENSON:

I'm saying local bars, local smoking --

LEG. FIELDS:

Let me finish the question

D.P.O. POSTAL:

Let Legislator Fields finish.

MS. BENSON:

I'm sorry.

LEG. FIELDS:

You made a statement that if this bill is passed, the bar that you like to frequent will be closed, you won't be able to go there anymore because what we're passing is going to put every bar and tavern out of business. But one of the other statements that you made is that people go to bars to congregate, to socialize with their friends. So then what you're saying really is kind of contradictory, that if I want to go to a bar and socialize with my friends, that if they suddenly aren't allowed to smoke in the bar, I'm never going to go back to that bar again, I'm never going to congregate with my friends, I'm never going to socialize, because the only reason I went there was to smoke. But you just said that's not the reason that they go there.

MS. BENSON:

If you listen, when you brought Home Depot to Long Island, you said mom and pop stores were not going to be hurt, they were hurt, they closed down. How many mom and pop hardware stores do you see around in Suffolk County? Not that many.

LEG. FIELDS:

I still see them there.

D.P.O. POSTAL:

We're engaging in a debate.

MS. BENSON:

But when it comes to local -- yes they'll still be some local bars that do get people that come in, but they're still going to be closed down. That means there goes an owner, he lost a business. There goes his employees, who might be four or five, they're out of work. There goes families that are affected. There's a whole bunch of people that you are going to hurt, more than one. Just because if ten go out, that's fifty people that are out of work, that's fifty homes that might be lost. You're not thinking about the consequences.

Like you said before, Legislator Field, about that one business that had the smoke free area, if they choose to with Legislator Haley to become smoke free, yes, more people will go there. But if you have all these places that are smoke free, the one place that you talked about that's smoke free, I feel they're going to go out of business, because all these other people are going to want to go, here, let me go to Jillians, let me go this to big restaurant there. They're going to lose customers. You're not going to have -- you're going to have all these smoke free places. They have so many place to go to. How many restaurants can some one -- how many restaurants can allow for all these people to come to? Places are going to close. That means the taverns and the small businesses are going to close down. Not all of them, but a majority of them will.

D.P.O. POSTAL:

Thank you. There's a question from Legislator Alden.

LEG. ALDEN:

Just a couple of quick things. Are you an employee or an owner of a bar?

MS. BENSON:

No, I'm not.

LEG. ALDEN:

Okay. Just one other thing have I to ask you too, are you a paid lobbyist by the tobacco?

MS. BENSON:

No, I'm not.

LEG. ALDEN:

So you're just a concerned citizen that came down?

MS. BENSON:

I'm a concerned citizen. I was sitting here and I was just listening to everything, and I felt what the bar and tavern owners are saying. They weren't - I don't know if anybody really understood -- they're worried about their livelihood, they care about their employees.

LEG. ALDEN:

We heard them. Thanks.

MS. BENSON:

They're really worried about their livelihoods. I don't think the Legislature really thinks about that. You have all these other people that came and talked from the Heart Association. The Heart Association puts their stamp on every cereal around. It's not healthy cereal. That does not mean the Heart Association knows what they're doing.

LEG. ALDEN:

Thanks.

D.P.O. POSTAL:

Thank you. Legislator Foley.

LEG. FOLEY:

Thank you. It's Ms. Benson?

MS. BENSON:

Yes.

LEG. FOLEY:

Ms. Benson, you mentioned that one of your primary concerns is the impact that this legislation would have on small businesses; is that correct?

MS. BENSON:

Yes.

LEG. FOLEY:

Okay. We're not supposed to make statements, but ask questions. So I'll have I to ask in rhetorical fashion.

MS. BENSON:

Go right ahead.

LEG. FOLEY:

Are you aware of the fact that there are a number of small business who are in favor of this legislation? In fact, we've had small businesses appear before us to speak in favor of this bill. So while you're right to say that -- you're accurate in saying that there are small businesses here who are concerned about the bill, I can likewise and the record will show that there are other small business that are, in fact -- are supportive of this bill. And I just wanted to have that --

MS. BENSON:

I can answer that question. Legislator Haley's bill, those small businesses that want to, can become a smoke free business. With yours, there's no choice. He gives choice. Your bill, there is no choice for anyone. So there's a difference between -- Legislator Haley's bill is the right bill, because if those businesses want to go smoke free, then they'll have that choice with his bill.

LEG. FOLEY:

But the point -- the point that you had raised was this was going to decimate small businesses, and the point that I'm trying --

MS. BENSON:

Your bill will decimate small businesses.

LEG. FOLEY:

-- I'm trying to raise, ma'am, is the fact there are a number of small businesses that you're and we're all rightly concerned about, but there are small business that's are in favor of this bill.

MS. BENSON:

Yes, and I'm saying that your bill is the wrong bill. Legislator Haley's bill --

LEG. FOLEY:

I'm saying they're in favor --

MS. BENSON:

But if they heard Legislator Haley's bill, then I believe they would understand and see that they have a choice to be smoke free. Your bill does not give anyone any choice.

LEG. FOLEY:

Right, but as I --

MS. BENSON:

There's a difference between choice and force.

LEG. FOLEY:

I understand, ma'am. Again, I'll say --

MS. BENSON:

And you can say it again, and it's still not going to change.

LEG. FOLEY:

Are you not aware that there are small businesses --

MS. BENSON:

I said I'm aware.

LEG. FOLEY:

-- that favor my bill?

MS. BENSON:

I said I'm aware, but your bill gives no choice.

LEG. FOLEY:

Thank you.

D.P.O. POSTAL:

Thank you, Ms. Benson. Is there anyone else who would like to speak on this hearing? Come on up. Please give your name and address.

MS. RUDIGER:

My name is Christina Rudiger. My home address is 97 Commodore Circle, Port Jeff Station, New York, 11776. Good evening. I am a health teacher in Three Village. I've been here once before. I'm sorry I couldn't be at the health committee meeting, because I was in class. But I just want to briefly start with the fact that I cover tobacco in my fifth grade again today, and first sheet of the packet of information I just provided for you is what my fifth graders were learning about tobacco. And on my own investigation, I learned more that secondhand smoke has even more of chemicals on addendum A here, which is ammonia, more the particulate chemicals, because the filter is not filtering them out.

But I'm really not here to talk about that, because I know you all know the bad stuff that's in tobacco, the 4000 chemicals and the eighty carcinogens. What I'm here to talk about are some issue that's were addressed in the last public hearing on this issue. Item B in your packet -- I'm sorry, I had eight packets so two of you probably don't have them -- but Item B addresses the Environmental Protection Agency. There was some concern or question that --

D.P.O. POSTAL:

I just need to interrupt you for a minute. This is a public hearing on resolution 2103, which is local law to offer freedom of choice smoking restrictions for bars, restaurants and restaurant-bars. So you need to let us know what your statement is with regard to that bill.

MS. RUDIGER:

Freedom of choice with regards to restaurants and bars?

D.P.O. POSTAL:

Right.

MS. RUDIGER:

So?

D.P.O. POSTAL:

If you're speaking on the other bill, you can speak during the public portion, which will come after this.

LEG. FOLEY:

We have a time period.

D.P.O. POSTAL:

Did you fill out a yellow card?

MS. RUDIGER:

I filled out a yellow card, yes.

D.P.O. POSTAL:

So you may -- you will be called later as soon as we go to this, which will very shortly after we close the hearings.

LEG. FISHER:

Does Christina understand that 2103 is freedom of choice of smoking in restaurants and bars, to smoke or not smoke?

MS. RUDIGER:

Okay. So 2020 is later.

D.P.O. POSTAL:

Thank you.

LEG. FOLEY:

In the next twenty minutes, you think?

D.P.O. POSTAL:

I don't know. As soon as we finish this, we can go to the public portion. Is there anyone else who would like to speak on 2103? If so, please come up, give your name and address. This is the resolution that is a Local Law to offer freedom of choice smoking restriction for bars, restaurants and restaurant-bars.

MR. {NICHOLINI}:

My name is John E. {Nicholini}, Junior. I live in Brentwood. And I'm retired. I spoke at the last Legislative meeting on Legislator Foley's bill, and I'm going to speak on this one, on 2103. This is choice. I just recently had published in Suffolk Life an article on choice. In fact, the last time I spoke, it was about choice, giving the bar owners and the restaurants owners choice of having either or on smoking. I wake up every morning, I look in the mirror, and I say, gee, another day, that's great, gee, maybe I'll make it to 73. In the meantime, I smoked for 44 years, I quit ten years ago, I smoked three packs a day. Ms. Fields, are you listening?

LEG. FIELDS:

Yes, I heard you.

MR. {NICHOLINI}:

I'm going to be seventy-three, okay? I'm really sorry that you lost a loved one to cancer.

LEG. FIELDS:

It wasn't cancer.

MR. {NICHOLINI}:

I don't know what kind of cancer.

LEG. FISHER:

It was I who said that, sir.

MR. {NICHOLINI}:

I neither have cancer of the lungs, nor do I have emphysema. And I'm 72, I'm going tobacco 73, and I smoked for forty-four years. So the young ladies here that spoke, and they gave testimonies to whatever about smoking, I don't believe it, because I look in the mirror and I see a healthy guy. Okay? My argument is that I'm a veteran. I fought in two wars, not one but

two. Okay? And I fought for freedom, freedom of choice. And this Legislative body is looking to take my choices away. I don't smoke, it doesn't bother me, okay? But the fact is why are you looking to take my choices and my freedoms away when I fought so hard for this country to preserve those freedoms? That's all I have to say on the subject. You can now go and vote on these things.

D.P.O. POSTAL:

Thank you. I have a question.

MR. { NICHOLINI } :

If you want to speak to me about taking physicals, I'll be only too happy to submit to any physical you want to give me.

D.P.O. POSTAL:

I have a question for you. Are you aware that not every smoker will get a smoking related disease? As a matter of fact, statistics show that one in three people who smokes will get a smoking related disease; emphysema, lung cancer, heart disease. And furthermore, that if an individual lives with a smoker, if there's a smoker in the house, and a person does not smoke and has never smoked, that that non-smoker has a greater chance of developing a smoke related disease than someone who doesn't live in the house with a smoker?

MR. { NICHOLINI } :

Okay. My wife is the same age as I am. We have twin sons, they're thirty-nine years of age, they're my youngest. And they lived with us and they both smoke, okay, in the house. We have no problem with them. My wife evidently must have the strong genes that I have, because secondhand smoke has not affected us. You want more proof? Come on down to the house, I'll give you the address.

D.P.O. POSTAL:

Thank you.

MR. { NICHOLINI } :

You're welcome.

D.P.O. POSTAL:

Is there anyone else who would like to speak on this public hearing?

LEG. HALEY:

Motion to close.

D.P.O. POSTAL:

Motion to close by Legislator Haley, seconded by Legislator Alden. All in favor? Public hearing in 2103 is closed.

Public hearing regarding Introductory Resolution 2104, a Local Law authorizing the County Treasurer to collect and distribute excess budgeted revenues received pursuant to Chapter 328 of the Suffolk County Code -- 27, I'm sorry -- hotel, motel tax. I have no cards on this hearing, is there anyone who would like to address the Legislature on this hearing?

LEG. FISHER:

Motion to close.

D.P.O. POSTAL:

Motion to close by Legislator Fisher, seconded by Legislator Bishop, all in favor? 2104 is closed.

Public hearing regarding Introductory Resolution Number 2105, a charter law to expands prior written notice of defective condition requirements. I have no cards on this public hearing.

LEG. FISHER:

Motion.

D.P.O. POSTAL:

Anyone who would like to speak? Motion to close, Legislator Fisher?

LEG. FISHER:

Yes.

LEG. BISHOP:

Motion to recess.

LEG. FISHER:

Recess?

D.P.O. POSTAL:

Motion to recess by Legislator Bishop, seconded by Legislator Fisher. All in favor? Opposed?

LEG. HALEY:

Opposed.

LEG. ALDEN:

Opposed.

D.P.O. POSTAL:

Legislator Alden is opposed and Legislator Haley is opposed. Public hearing on 2105 is recessed. **Public hearing regarding Introductory Resolution Number 2113, adopting a Local Law to separate Legislative meetings into voting days and public participation days.** Let me ask if there's anyone who would -- I have no cards. Is there anyone who would like to speak on this hearing? Hearing no one, motion to close by Legislator Caracappa.

LEG. HALEY:

Second.

D.P.O. POSTAL:

Seconded by Legislator Lindsay. All in favor? Any opposed? 2113 is closed.

[SUBSTITUTION OF STENOGRAPHER - ALISON MAHONEY]

D.P.O. POSTAL:

I have a resolution from Legislator -- a motion by Legislator Carpenter, seconded by Legislator Towle to set the date of December 5th, 2002, 2:30 P.M., in Riverhead, New York, for the following public hearings; Public hearing on Introductory Resolution No. 2135, 2136, 2137, 2138, 2153, 2154, 2157, 2233 and 2234. All in favor? Any opposed? The date for the public hearings is set.

Now we're going to return to the public portion. As you know, as the Presiding Officer stated, at six o'clock by our rules we will have to stop the public portion and turn to the agenda. I'm going to begin where we left off, Marnae Ergil; is she here? Dr. Arthur Grollman?

DR. GROLLMAN:

Ladies and gentlemen, my remarks, prepared remarks were circulated to you this morning, but I decided to come back after this afternoon and deliver them in person seeing the very active lobbying that takes place out in the hallways.

Now, as a Professor of Pharmelological Sciences and Medicine at the State University of Stony Brook and as an expert on scientific social economic and political aspects of herbal medicine, I came here to testify that the unregulated sale of products containing ephedra represents a real and immediate threat to residents of Suffolk County. Ephedra is claimed by it's manufacturers and distributors to be safe for human use simply because it was used for centuries in China and because as an herb it is considered a natural product; such reasoning could not be further from the truth. Herbs are merely crude drugs containing not just one but hundreds of chemicals, many of which are harmful to certain individuals.

Another prevailing myth which was repeated to you this morning from the gentleman from Touro College is that our Federal Government acting through the FDA, is empowered to protect the public against the dangers posed by herbal remedies. Since power did exist but was removed in 1994 when Congress passed the Dietary Supplement and Health Education Act. This fatally-flawed legislation classified herbs as dietary supplements which most assuredly they are not and removed the requirement from manufacturers to provide the FDA with evidence that a new product is safe before marketing. The burden of proof, therefore, was shifted to FDA who after the fact must prove that a dietary supplement presents significant or unreasonable risk of injury. And even when overwhelming evidence of such injury appears in the medical literature as it does for Ephedra, the FDA lack staff and resources to document their case in a court of law. And in the meantime, as right now, the public continues to be opposed, exposed to the offending supplement.

Many Americans have been persuaded by misleading advertisement that supplements containing Ephedra promote long-term weight loss, increase energy and enhance athletic performance; in fact, it does none of these. Like its chemical cousins, methamphetamine, or speed on the street, and phenylpropeleme, PPA which was recently withdrawn from the market. Ephedra suppresses

appetite but rapidly produces tolerance. Sustained weight loss in obese persons has never been demonstrated at doses of Ephedra considered to be safe.

Now, Mr. Cooper's bill rightly emphasizes potentially fatal events. These are amply documented in the medical literature and summarized in recent testimony provided in October to a US Senate Committee by the FDA Commission. Based on these hearings, Senator Dick {Durban} hopes to amend {DeShea}. He is opposed by powerful Senators including {Warren Hatz} of Utah who received considerable financial support from the dietary supplement lobby.

The Federal process moves slowly. Is, therefore, incumbent on local County and State Legislators to protect their citizens, adults as well as children, by banning the sale of all form of Ephedra alkaloids in their jurisdiction.

D.P.O. POSTAL:

Dr. Grollman, I'm sorry but your time is up.

DR. GROLLMAN:

One last sentence?

D.P.O. POSTAL:

Well, there's a question from Legislator Cooper.

LEG. COOPER:

Dr. Grollman, is there anything you would like to add to that?

DR. GROLLMAN:

This is happening in other states. If you take you -- you, Ladies and Gentlemen, take the courageous step of banning the sale of Ephedra alkaloids in Suffolk County, you will continue the admirable tradition of marching in front of the Federal Government to act where the health and welfare of your citizens is concerned. The public health must supercede the economic interest of the botanical industry. Thank you very much.

LEG. BISHOP:

Very good.

D.P.O. POSTAL:

Thank you. Next speaker --

LEG. FISHER:

I have a question.

D.P.O. POSTAL:

Question from Legislator Fisher.

LEG. FISHER:

Hello, Dr. Grollman. I was hoping to ask you this question this morning because there was a practitioner of Chinese medicine I think he said?

DR. GROLLMAN:

I heard him speak if it's the one from Touro College.

LEG. FISHER:

No, not from Touro College --

DR. GROLLMAN:

I didn't hear the other one.

LEG. FISHER:

-- he was from New York.

LEG. CARACAPPA:

I think Syosset.

LEG. FISHER:

Was it Syosset?

DR. GROLLMAN:

What is the question?

LEG. FISHER:

He referred to other uses of Ma Huang other than dietary, he said it's an effective herbal

supplement that's used by the Chinese techniques that he uses for lung and respiratory and asthma, asthmatic conditions, and I was wondering if you could respond to that or address that.

DR. GROLLMAN:

That's absolutely correct. The Chinese over the years know when things are dangerous very frequently, they use it for exactly that. We used to use Ephedra for mild asthma, it has effects on that, but not for weight loss and not in those doses and only for those short periods of time that they're using it.

LEG. FISHER:

Okay. So that what you're saying is that that's a use that you would consider a positive use? What would happen if Ephedra were banned then, then that use of Ma Huang would not be permissible?

DR. GROLLMAN:

Ephedra can be prescribed by any physician, it's as Ephedrine, and then you know how much there's in it and you can use it for asthmatic conditions and you're using it with a proven drug and regulated as a drug. No one is -- would be -- wouldn't be able to get it, but there are much better drugs than Ephedra or Ma Huang.

LEG. FISHER:

Okay. So what you're saying is under a doctor's care, the doctor could prescribe this?

DR. GROLLMAN:

As they have for the last 50 years.

LEG. FISHER:

Okay, but it's as a dietary supplement that it would be banned. I didn't understand the bill correctly then and I'll query the sponsor later.

DR. GROLLMAN:

Oh, absolutely, absolutely. Prescription and OTC drugs are covered by regulation that's work very nicely. It's only the dietary supplements which they slipped herbs in, along with vitamins and everything else, that in 1994 made a problem, there was no problem before that.

LEG. FISHER:

Thank you, Doctor.

D.P.O. POSTAL:

Legislator Bishop and then Legislator Fields and Legislator Guldi.

LEG. BISHOP:

Just to build on that line of questioning. Are you saying there's a distinction between Ephedra and Ephedrine?

DR. GROLLMAN:

As a pharmacologist and a physician, no one could possibly distinguish between the two from their pharmacologic or medical effects. Ephedra contains Ephedrine, it contains pseudoephedrine, it contains three or four; pharmacologically they're exactly the same.

LEG. BISHOP:

Now, your bill, Jon, bans --

LEG. COOPER:

It bans dietary supplements containing Ephedra precisely because of the 1994 Act which exempted dietary supplements from the requirement for premarket safety testing and exempted the manufacturers of dietary supplements from the requirement that drug companies have to comply with to report adverse instance to the FDA.

LEG. BISHOP:

So if your -- if I may continue on that?

D.P.O. POSTAL:

Well, you know, I think it really might be better for you to have a discussion when we come to the bill on the agenda.

LEG. BISHOP:

Well, I think this is what we all want to know.

D.P.O. POSTAL:

Well, I mean, this is -- these are good questions.

LEG. BISHOP:

Are you banning --

LEG. FISHER:

But Dr. Grollman is here --

D.P.O. POSTAL:

But you can ask Dr. Grollman these questions.

LEG. BISHOP:

Dr. Grollman, is it your understanding of Legislator Cooper's bill that the medical uses of Ephedra would continue, they would not be impacted?

DR. GROLLMAN:

Absolutely. As a physician, if this bill were passed I can prescribe Ephedra, I can prescribe amphetamine, but you don't let amphetamine out but those are done under a different regulation.

LEG. BISHOP:

Understood. Thank you very much. Found a loophole.

D.P.O. POSTAL:

To tell you the truth, Legislator Guldi.

LEG. GULDI:

Legislator Fields is next.

D.P.O. POSTAL:

Oh, I'm sorry. Legislator Fields.

LEG. FIELDS:

The acupuncturists who have testified before us, are they able to write prescriptions?

LEG. BISHOP:

I don't think so.

DR. GROLLMAN:

I don't believe they are in this way.

LEG. FIELDS:

Then that would be the reason that they would choose a drug that's not as effective for asthma like Ma Huang instead of using a drug that would be much better for asthma.

DR. GROLLMAN:

Sure. The Chinese traditional medicines and acupunctures and the natural paths not only -- need that sort of freedom because they're not allowed to do that under prescription.

LEG. FIELDS:

Thank you.

D.P.O. POSTAL:

Legislator Guldi.

LEG. GULDI:

A clarification of the point you just made. You said Pseudophedra and Ephedra are pharmacologically indistinct, is that what you've said?

DR. GROLLMAN:

They're different what we say quantitatively, one has a little bit more effect on the central nervous system, a little bit more effect on the --

LEG. GULDI:

But pharmacologically they're substantially identical.

DR. GROLLMAN:

They're a family anyway.

LEG. GULDI:

Is Pseudoephedrine the same kind of Pseudoephedrine that's also available over the counter?

DR. GROLLMAN:

That's the one, as an over the counter drug.

LEG. GULDI:

As an over the counter drug and it's found in Sudafed and found in like Tylenol Cold --

DR. GROLLMAN:

That's right, exactly.

LEG. GULDI:

-- and those kind of things. So this same pharmacological substance is available through FDA regulation and available through the medical doctors through prescription.

DR. GROLLMAN:

Exactly, with carefully prescribed amounts and limited amounts they're safe that are far lower than those that are prescribed for Ephedra, that are recommended for Ephedra.

LEG. GULDI:

But this bill would prohibit Chinese herbalists and acupuncturists from using Ma Huang in their practice entirely, would it not?

DR. GROLLMAN:

Abso -- as I understand it, it certainly would.

LEG. GULDI:

Now, your testimony here, however, doesn't criticize or categorically reject that use, does it?

DR. GROLLMAN:

No. I explained to you that Ephedra can be used, it should be used, even by them it should be used as a purified drug, not as Ma Huang which you don't know the composition of.

LEG. GULDI:

So the answer to my question is is their use, as you understand it, a legitimate use or a use that should be prohibited?

DR. GROLLMAN:

It's a very, very limited use and if it's prohibited, nothing would be lost by that. I'm talking about the use --

LEG. GULDI:

That's not the question I asked, though. The question I'm asking you is is their use one that creates a public health risk and should be prohibited?

DR. GROLLMAN:

Anyone who uses it would be including those who prescribed it; the answer is yes.

LEG. GULDI:

The answer is yes, you think the Chinese herbalists should be prohibited from using Ma Huang while the medical community can still prescribe the pharmaceutical equivalent of it and it's available over the counter in pharmaceutical equivalents.

DR. GROLLMAN:

I think -- if that's the impact, I think that that would be a good thing.

LEG. GULDI:

Well, your testimony is clear. Thank you, sir.

LEG. COOPER:

Excuse me, if I can follow-up with a question?

D.P.O. POSTAL:

You have to wait until after Legislator Fisher has an opportunity to ask her question. Legislator Fisher?

LEG. FISHER:

Okay, what concerns me with this discussion is that it seems to be a debate between western

and eastern medicine and its efficacy and its validity. Because you're saying that under a doctor's care that in a practice that Ephedra can be a drug that is used with -- that has value and yet you're discounting the use by Chinese herbologists and acupuncturists; is that a correct characterization?

DR. GROLLMAN:

No, you have to -- I said it was a very limited use. You ask in Chinese medicine, they can't ascertain did it have a bronchial dilatory effect. Yes, it does, that's a pharmacological property, that's a very limited use.

LEG. FISHER:

But that would be banned under this legislation, if I understand it correctly, because that person would not have the ability to write a prescription, and yet it can also be sold as Pseudoephedrine over the counter. So somebody can buy it as Pseudoephedrine over the counter more easily than a practicing Chinese herbologist or acupuncturist would be able to purchase it.

DR. GROLLMAN:

My understanding is that the sale is banned. I don't know how a naturopath or a Chinese acupuncture, whether they're prohibited from purchasing the drug as they can purchase it, through the Internet or elsewhere, I don't know that that's prohibited, you would have to ask Mr. Cooper.

LEG. FISHER:

Okay, we will have to discuss that at the time of the debate.

DR. GROLLMAN:

Exactly.

LEG. FISHER:

Thank you, Doctor.

D.P.O. POSTAL:

Any other questions? Legislator Cooper.

LEG. COOPER:

Is it correct that one advantage of using Pseudoephedrine in a prescription drug is that that drug is manufactured according to FDA manufacturing standards and you would know what the dosage is of Ephedra in each pill. Whereas my understanding after speaking with one of the practitioners of Chinese Herbal medicine who admitted that the amount of Ephedra in a plant can vary widely from one plant to another, they're never quite sure of how much they're putting in to a tea, if that's what they're mixing it in. And when I asked him if that was a concern, his reply was, "Well, since we don't know how much is in there, I normally prescribe a lot less than I normally would to cover myself in case the dosage is too strong." So is my understanding correct?

DR. GROLLMAN:

All that's correct, he told you exactly like it is. There's no way you can tell the amount of herb, material in an herb without an extremely careful and expensive chemical analysis and no practitioner can do that.

LEG. GULDI:

I have one more follow-up question, if you're done.

D.P.O. POSTAL:

Are you finished?

LEG. COOPER:

Yes, I am.

D.P.O. POSTAL:

Legislator Guldi.

LEG. GULDI:

Back in your introductory remarks you described your expertise in orientation; could you repeat that, please?

DR. GROLLMAN:

I'm a Professor of Pharmacology and of medicine and actually I have to tell you, I do research in herbal medicines and I've testified before the White House Commission on alternative complementary medicine which is very pro traditional medicine. I have also testified before

Governor Pataki's Committee on Law who are considering things so -- considering this same issue. So I've given a lot of thought to this as well as it relates to research interests that I do myself.

LEG. GULDI:

The -- yeah, let's go there for just a minute. Do you have a perspective on eastern medicine and complimentary medicine?

DR. GROLLMAN:

Sure.

LEG. GULDI:

Do you have an opinion on that subject as a whole?

DR. GROLLMAN:

Well, I could give you my testimony to the White House Commission that's now in President Bush's hands.

LEG. GULDI:

Can you give me a brief synopsis of your position on that area of medicine?

DR. GROLLMAN:

My brief synopsis is that the worst thing that has happened to complimentary alternative medicine is the Dietary Supplement Act. The herbs are what are causing the problem and which will lead to the restriction of that entire practice. So that I think that's -- I'm cutting off herbs from alternative medicine practices, those -- most of those are not dangerous. Herbal medicine as practiced and used and as unregulated is dangerous, that's the big difference that I think is relevant to your discussions here.

LEG. GULDI:

So all right. My -- the direct question then is this; do you consider eastern medicine, Chinese herbalists and complimentary medicine head practitioners to be legitimate public health practitioners or do you consider them to be outside of that realm?

DR. GROLLMAN:

I would take the view that was in the New England Journal, the New England Journal of Medicine

which was sincerely that there is no alternative medicine; there is only medicine that works and medicine that doesn't work. There are medicines we don't know about, some of those may be known in Chinese medicines. When they demonstrate that they work we should take them in, we should use them, but they won't be alternative anymore.

D.P.O. POSTAL:

Legislator Guldi?

LEG. GULDI:

Yeah, I'm not sure I understand the answer. So is it your perspective then that other than those demonstrably effective techniques, approaches and medicines that are integrated by the mainstream allopathic medical practitioners in this country are the only legitimate aspects of that?

DR. GROLLMAN:

No, I told you in my own research we have found native herbs, we've isolated active principals and we found new things from that, that's a legitimate approach. But we feel that when that has been identified you prove its safety and you prove its ethicacy, and until the safety and ethicacy are proven it shouldn't be generally --

LEG. GULDI:

Standard FDA Phase II/Phase III testing is what you're talking about.

DR. GROLLMAN:

Safety and ethicacy, the present rule set up in '62, do exactly what you said.

LEG. GULDI:

Okay, I understand your perspective now, sir. Thank you very much.

DR. GROLLMAN:

And I did testify that way to the White House Commission.

D.P.O. POSTAL:

Thank you. Thank you, Dr. Grollman. Next speaker is Barbara Charles. Is Barbara Charles here? Next speaker is Jaclyn -- oh, that's Barbara Charles? Following Barbara Charles will be

Jaclyn Conahey and following Jaclyn will be John, it looks like, Sclafano.

MS. CHARLES:

Good evening. My name is Barbara Charles and I have lived in Huntington for over 20 years and I'm very active in community affairs in that community. I'm a Registered Nurse, I'm a Certified Nurse Midwife for over 25 years. I have been in private practice on Long Island for some 20 years and have privileges in the North Shore System. I have birthed over 2,500 babies in a hospital setting and women come to me on a regular basis for well women check-ups. I'm on the faculty at both Stony Brook University and Pace University and in April of this year I completed a year and a half course of study in wholistic nursing at the New York College for Health Education and Research.

I have a DEA number. And while I can prescribe a select number of drugs or medications under that DEA number, my patients prefer that I recommend herbs for various conditions associated with, for example, pregnancy, breast feeding and menopause. My patients in general are well educated; they are lawyers, chiropractors, physicians, teachers and nurses and, like my family and I, prefer to utilize natural modalities to maintain our health or to get well when we are ill.

I am, along with my husband Jeff Newman, a founding member of the Long Island Coalition for Safe Living, an organization that played a key role in the fight to close Shoreham. As I said, we have lived in Huntington for 20 years and although Jeff couldn't be here today, my statement incorporates his viewpoint regarding Bill No. 1954 and Bill No. 2153.

I have stood at this this podium on many occasions to address the Legislature on other issues of concern to our health such as food or radiation and fluoridation of the Suffolk Water supply. The Long Island Coalition commends the Suffolk County Legislature for its wisdom and leadership in protecting the residents of Long Island. Shoreham never operated at full power and is closed, the only time in the history of the world that a nuclear power plant operating on low power testing mode was decommissioned and dismantled. Suffolk's water supply is free from fluoride, a modern day toxin that comes from the manufacturer of phosphate fertilizer. I am proud of these accomplishments. And since as a licensed health care professional I routinely recommend homeopathic and herbal remedies on a daily basis to my patients, I view with alarm the introduction of the bill 1954 that seeks to ban the sale of Ma Huang in Suffolk County.

One of my colleagues, Roy Carr who was here earlier today to testify, told me a story about a

patient of his who had a history of severe asthma.

D.P.O. POSTAL:

Ms. Charles?

MS. CHARLES:

Yes?

D.P.O. POSTAL:

I'm sorry.

MS. CHARLES:

It's coming -- I'm wrapping it up.

D.P.O. POSTAL:

There is a question from Legislator Alden.

MS. CHARLES:

I would just like to finish this paragraph, if I may.

D.P.O. POSTAL:

Let him ask his question.

LEG. FISHER:

If I could be on the list?

LEG. ALDEN:

Is there anything you want us to consider while we're considering this bill, anything else you'd like to say?

MS. CHARLES:

I would, I would just like to finish this paragraph. She wanted to get pregnant but was on high doses of steroids, the category of drugs used for this condition, and was told it would be dangerous for her to become pregnant; subsequently she was taken off the steroids and took Ma Huang under supervision. Rory Carr, along with scores of other oriental medicine practitioners

on Long Island, is licensed and qualified to prescribe herbs. The patient conceived and succeeded in carrying to term without a life-threatening asthma attack that may have caused the life -- her life and that of the baby.

And I would just urge the Legislative body, in view of the fact that we here in Suffolk County have the advantage of having access to wonderful wholistic health care practitioners who practice Chinese medicine, not to cut off our right to have use of an herb that these practitioners use routinely to treat common but serious conditions of the lung. The Long Island Coalition urges you to vote no to Bill No. 1954 and to consider passage of Bill No. 2153 instead. Thank you.

D.P.O. POSTAL:

Thank you.

LEG. COOPER:

Maxine, I have a question.

D.P.O. POSTAL:

Question, legislator Cooper.

LEG. COOPER:

I know we spoke earlier today, but I don't recall, did you say that you are someone who uses Ma Huang or do you prescribe Ma Huang in your practice?

MS. CHARLES:

I do neither, but I view it as an infringement upon the right of those women, men and women, women in my particular field, who might benefit from the use of this herb if it were prescribed if they did. Because most of the patients who come to me, I'm a certified midwife, are women who do not go the usual route of {alopathologic} drugs, they prefer to use an alternative such as a homeopathic remedy or an herbal remedy.

LEG. COOPER:

And do you believe that if you -- let's say you took an excess dose of Ephedra, took too much, do you believe that that could be problematic for a patient?

MS. CHARLES:

I believe that it should be prescribed by someone who is qualified to prescribe it, who has done a proper assessment and that that is the proper appropriate use for that herb.

LEG. COOPER:

That wasn't my question. But do you believe that it's possible to overdose on Ephedra?

MS. CHARLES:

I think it's possible to overdose on anything.

LEG. COOPER:

So the answer is yes.

MS. CHARLES:

I think it's possible to overdose on anything, I just don't want the choice to be taken away.

LEG. COOPER:

So the position of I believe the Chinese -- practitioners of Chinese herbal medicine, that because of the nature of the plant, it's impossible for them to know what the dosage is of Ephedra in any particular plant. So when they put it into the tea or the other mixture, they've admitted that they don't --

D.P.O. POSTAL:

There is a question, Jon.

LEG. COOPER:

Yes, there is. They have admitted that they don't know how much they're actually putting in, since you've said that it's possible to overdose and that could cause --

MS. CHARLES:

I think that's why Chinese practitioners take a very thorough history, including pulse and tongue diagnosis, and they give very, very small amounts of any herb that is ever prescribed. And I heard Roy Carr testify this morning that he has used it and to his awareness, not only have none of his patients ever had a side effect but he's not aware in Chinese practitioner circles that there's ever been a problem.

LEG. COOPER:

Thank you.

D.P.O. POSTAL:

Legislator Fisher and then Legislator Guldi.

LEG. FISHER:

I'm glad you're here because I hadn't -- I did not remember the name, Rory's name and it was his testimony to which I was referring. I do have a question regarding what you had mentioned in your introduction, that you do have a DEA license.

MS. CHARLES:

Yes, I do.

LEG. FISHER:

A DEA number so that you can prescribe. However, I don't believe that Rory Carr has the ability to prescribe, or does he?

MS. CHARLES:

Yes, he does. He doesn't have to have a DEA number to prescribe herbs.

LEG. FISHER:

So he can prescribe. With this ban, however, would be able to prescribe?

MS. CHARLES:

No.

LEG. FISHER:

Okay.

MS. CHARLES:

He would not be able to prescribe Ma Huang which is why I'm here because I feel --

LEG. FISHER:

Okay. However, a doctor who's practicing allopathic medicine and prescribing allopathic drugs

would still be able to prescribe Ephedrine with this ban or Pseudoephedrine as far as you know? I'm trying to get a better understanding of what this reso -- how this resolution will limit and how it will form a divide between those practicing with allopathic as opposed to homeopathic.

MS. CHARLES:

Right, I understand. I'm not well educated enough on that particular aspect of prescribing privileges to know if a ban were to be in place, if having a DEA number would permit a physician to override the ban and prescribe it, I have no idea.

LEG. FISHER:

Okay. So you've reinforced my sense that this really needs to be something that's questioned when we discuss the bill.

MS. CHARLES:

Yes.

LEG. FISHER:

I'm not -- it's not clear in the bill, I have the bill before me and it's still not clear to me whether or not that would be the case.

MS. CHARLES:

Right. And the one part that I didn't say that I think your question leads me to think about again is that I don't understand why a bill wasn't written that would not exclude traditional Chinese practitioners or practitioners of oriental medicine from prescribing Ma Huang which, I mean, that makes the most sense because they are the people who know the most about it and use it the most efficiently.

LEG. BISHOP:

Do they have licenses?

MS. CHARLES:

Yes, they're licensed.

LEG. FISHER:

They have DEA numbers and they're licensed.

MS. CHARLES:

They're certified and it's regulated, yes.

LEG. FISHER:

Now you are a -- you do help with birthing, etcetera, and so I assume you know a great deal about mothers and children. My son is an asthmatic and he's had to take steroids on occasion.

MS. CHARLES:

Uh-huh.

LEG. FISHER:

Have you ever known of side effects if there are -- if there is --

MS. CHARLES:

Side effects from steroids?

LEG. FISHER:

Side effects from steroids.

MS. CHARLES:

Many.

LEG. FISHER:

Okay.

MS. CHARLES:

Many.

LEG. FISHER:

Thank you.

D.P.O. POSTAL:

Legislator Guldi.

LEG. GULDI:

Yeah, if I may; I'm over here. I'm familiar with nurse midwives because three of my four children were delivered by those, by nurse midwives.

MS. CHARLES:

Wonderful.

LEG. GULDI:

Including one who was by a home birth.

MS. CHARLES:

Uh-huh.

LEG. GULDI:

So I'm going to ask you some questions I know the answers to really illustrate your perspective and the nature of your practice. The -- I mean, if you had a patient who was at risk, would you hesitate to prescribe a C-Section?

MS. CHARLES:

At risk?

LEG. GULDI:

At risk of terminating.

MS. CHARLES:

At the time of birth?

LEG. GULDI:

At the time of birth.

MS. CHARLES:

Would I hesitate to recommend a C-Section?

LEG. GULDI:

A C-Section if her or the child were at risk.

LEG. GULDI:

Of course I wouldn't hesitate.

LEG. GULDI:

Of course not. Would you hesitate to prescribe using your script privileges, antibiotics or traditional allopathic medicines when and as they were indicated?

MS. CHARLES:

I would not hesitate.

LEG. GULDI:

Okay.

MS. CHARLES:

Under the --

LEG. GULDI:

Appropriate symptoms.

MS. CHARLES:

Appropriate -- right, use of my --

LEG. GULDI:

Do you prescribe ever herbs or allopathic medicine or homeopathic medicines to your patients?

MS. CHARLES:

Very frequently.

LEG. GULDI:

Very frequently.

MS. CHARLES:

Yes, I do.

LEG. GULDI:

So the scope of your practice, however, those herbs and homeopathic remedies that you prescribe, would they meet the test that the last witness testified to as to having efficacy and meeting Phase II and Phase III testing standards for FDA approval?

MS. CHARLES:

I'm not sure if they would but I do know that more and more herbs are being approved and homeopathic remedies are being looked at very seriously by the medical community as being efficacious alternatives.

LEG. GULDI:

Yeah. Well, they are -- they do seem to be learning a lot about an area that they used to write off entirely.

MS. CHARLES:

That's right.

LEG. GULDI:

And we are learning more about it every day, aren't we?

MS. CHARLES:

That's right.

LEG. GULDI:

Are there any prescription -- part of the testimony that we had this morning by one witness, I don't know if you were here that early, was that the comparative risk of Ephedra complications and/or related deaths per one reporting source raised a question of either as few as 43, as many as 145 possible cases. I mean, by contrast, Acetaminophen and Ibuprofen conflicts kill how many people in America a year?

MS. CHARLES:

I don't know the number but I did a medline search to look for the fatalities associated with drug related events and the combinations of drugs, combinations of pharmaceuticals, and the first pull-up on the medline was 13,000 plus articles.

LEG. GULDI:

Right.

MS. CHARLES:

And the summary -- I mean, all of these allopathic drugs, I think it was mentioned this morning the studies done on Tylenol, on Acetaminophen, I mean, it's just incredible.

LEG. GULDI:

It's huge. However, we don't ban those because in spite of that frequency of negative results, those medications still provide huge positive therapeutic effects in many cases.

MS. CHARLES:

That's exactly right.

LEG. GULDI:

Are there many cases to your knowledge where Ma Huang provides positive therapeutic effects?

MS. CHARLES:

Absolutely.

LEG. GULDI:

Thank you.

MS. CHARLES:

You're welcome.

D.P.O. POSTAL:

Thank you. Oh, you can have a question, Legislator Cooper, you can't -- just one moment, Legislator Cooper has a question.

LEG. COOPER:

I was going to really bring this up later but it's apropos now. Are you aware that my bill would really not stop a practitioner of Chinese herbal medicine from dispensing Ephedra to his or her patients? My bill doesn't cover dispensing the product, it covers the sale of the product.

LEG. GULDI:

Wait a minute.

LEG. COOPER:

I'll explain later on why I'm making a differentiation, but are you aware of that?

MS. CHARLES:

I'm not aware of it, but I do know in my own case I don't carry herbs in my practice. And many practitioners don't sell herbs, what they do is they recommend herbs and then patients go to the health food store or to the appropriate herbal pharmacy, be it in China Town or wherever, and get their prescription filled according to the recommendation.

I myself, I cannot carry in stock herbs and I don't want to be in the herb sale business. I have no financial interest and I was very offended this morning when I heard you say honestly speaking that everybody who is against this bill has some financial interest in Ma Huang or in Ephedra.

LEG. COOPER:

I didn't say that, I never would say that, I said that everyone who had testified so far --

MS. CHARLES:

Uh-huh.

LEG. COOPER:

-- over the past two months had a financial stake.

MS. CHARLES:

Oh, okay, all right. Well, I don't and I have no intention of selling herbs but I would really like to continue and have my colleagues continue be able to recommend it.

LEG. COOPER:

They can recommend it. Are you aware that they could recommend it, they could even dispense it, are you aware that anyone who has received a prescription for it can still purchase it from Nassau County or from Queens? I'm only trying to prohibit the sale within Suffolk County and again, I'm going to explain later why that's an important differentiation.

MS. CHARLES:

Well, that makes it problematic for people in Riverhead because they're not going to be able to travel, you know, especially if they have something like bronchitis or pneumonia, they're not going to get in the car and drive two hours --

LEG. COOPER:

Right. Well, but then wouldn't it be possible for their practitioner of Chinese herbal medicine that they're seeing to dispense it to them?

MS. CHARLES:

Well, I don't know, I can't speak for those practitioners. But I just know that I am a holistic practitioner and I don't want to be in the business of selling herbs, I'd rather be able to have the right to tell patients, talk with patients about it and I know my patients would like to have the right to be able to go and purchase it.

LEG. COOPER:

Thank you.

LEG. GULDI:

I have a follow-up question which is equally absurd. Are you aware -- you can always tell a question that starts with an are you aware because it's one of those. Are you aware that if you as a medical practitioner or otherwise were to dispense marijuana or recommend to dispense marijuana to one of your patients in the State of New York that you would be subject to criminal prosecution for criminal sale of marijuana?

MS. CHARLES:

Yes.

LEG. GULDI:

Thank you.

D.P.O. POSTAL:

Thank you.

MS. CHARLES:

You're welcome. Thank you.

D.P.O. POSTAL:

Next speaker is Jaclyn Conahey; is she here?

MS. CONAHEY:

Yes.

D.P.O. POSTAL:

And following Jaclyn, John, it looks like Scafano; is he here, John Scafano? And since he's not here, it looks like Austin Rohds, it could be Rodos; is he here? Katie Nilson. Then you're the next one. Go ahead.

MS. CONAHEY:

I just want to thank you for being here and hearing what we have to say, we know you're very busy.

LEG. FISHER:

Can you hold the mike closer?

MS. CONAHEY:

We have a few folders to hand out to the Legislators. My name is Jaclyn Conahey, I am a junior at Pierson High School. I have been attending Human Understanding and Growth Seminars, also known as HUGS, since last year. We feel HUGS is very important, that's why we came to the -- we decided to get up at 5:30 so we can be here by nine o'clock.

I have met with so many great people within the seminars. We have talked about many topics including alcohol and drug abuse, violence, depression, grief and many other problems in today's society. I feel it is much easier to talk to my peers and learn from their experience than having a teacher stand in front of the room and preach and telling us what we have to do or what we

should be doing. I have learned a lot from my peers. To really understand this program, you need to be there for the experience. We welcome any one of you to com to a weekend.

The beginning of the weekend everybody gets one of these, what I have around my neck, they're warm fuzzies. And what we do, we go around and this is how we meet everybody, we give each other one warm fuzzy and we put it around the neck like I have on mine, and this is a way of showing kindness and friendship to each other. And to conclude this, I would just like to give you each one of my warm fuzzies.

LEG. FISHER:

Thank you, we could use one

D.P.O. POSTAL:

Thank you very much.

LEG. FISHER:

We could use that just about now.

D.P.O. POSTAL:

You know what, can one of the staff people take those because there's a question from Legislator Alden.

LEG. FISHER:

I never thought I'd see Ed giving out warm fuzzies.

D.P.O. POSTAL:

Okay, Legislator Alden?

LEG. ALDEN:

Thanks for coming down and I'm sorry that you had to make such a sacrifice at 5:30 in the morning to get here. Are you aware that Legislator Lindsay, as well as other Legislators, are working right now to restore the funding for HUGS?

MS. CONAHEY:

We had heard something about that but we weren't positive but we just wanted to let you know

how we feel about the program, the youth. Because we know a lot of people on Long Island aren't fully sure what the program is, if they had even heard of the program at all, and we just wanted to tell you how we feel about the program.

LEG. ALDEN:

And it makes a big difference for you people to show up today and thank you very much for that.

MS. CONAHEY:

You're welcome.

D.P.O. POSTAL:

Thank you very much. The next speaker is Katie Nilsen.

MS. NILSEN:

I am also here representing HUGS. The HUGS Program has been going on for 22 years and we are upset to learn that we may not get the funding and we were very --

D.P.O. POSTAL:

Could you just talk closer to the microphone or lift it closer to your mouth? Thank you.

MS. NILSEN:

Sorry. We are very appreciative of your time and the time you are spending on helping us get the funding. I am here --

LEG. FOLEY:

Take your time.

MS. NILSEN:

I was asked to talk about my experience with HUGS. To me HUGS is a place where I can be myself and be respected and accepted. At HUGS we discuss everything. If you are having problems, adult participants at HUGS, student leaders and students that attend this program are very quick to listen to you and how you feel. They help you work your problems out. I have met many kids my age that have been suicidal or have had serious problems in their homes; by going to HUGS, they have been able to turn their lives around and many young men and women have grown up through HUGS to become caring and responsible adults.

My first seminar was in March, 2002. When I started going to HUGS I was very angry and I didn't get along very well at all with the few members of my family, but now not even a year later I can communicate my feelings with them and we better understand each other. Along -- which is very important to me. To fully understand the HUGS Program, you really have to be there. It is very hard to explain the importance of this program. HUGS has significantly changed the lives of not just a few but many teenagers on the east end of Long Island. Many people in this room I'm sure have not even heard of the HUGS Program and many think that we are just a few kids on the east end of Long Island, but at each seminar about 60 to 80 kids attend and there have been restrictions on how many kids can attend from each school because there's not enough room to hold them and we don't have enough facilities. I would like to thank you for your time.

LEG. CARPENTER:

Thank you.

LEG. FISHER:

Before you leave I have a question.

D.P.O. POSTAL:

There's a question. Legislator Fisher?

LEG. FISHER:

I forgot your name.

MS. NILSEN:

Katie Nilsen.

LEG. FISHER:

Hi, Katie. Katie, we heard about HUGS yesterday and to be honest with you, I really didn't know very much about HUGS until yesterday. And I'm just curious as to how did you find out about HUGS?

MS. NILSEN:

I found out about HUGS through my school counselor.

LEG. FISHER:

Guidance counselor?

MS. NILSEN:

Yeah, guidance counselor. She's really into the program and she encourages a lot of the kids from our school to attend, and it's very helpful.

LEG. FISHER:

Okay. So generally the guidance counselors at the high schools?

MS. NILSEN:

Yeah.

LEG. FISHER:

Or high school and junior high?

MS. NILSEN:

I think it's basically high school.

LEG. FISHER:

Basically high school kids. And when you go out for the weekend, you say there are about 80 kids who are there at the seminars?

MS. NILSEN:

Sixty to 80, yeah.

LEG. FISHER:

And how are they divided up, how many adults are there?

MS. NILSEN:

There are about I'd say 20 adults there. And first of all, we divide up into about seven to ten family groups; in the family groups we discuss what has gone on in group meetings. In group meetings we talk about -- like we have visitors and they discuss eating disabilities

and alcohol problems and in our family groups we get to better discuss what we have learned at the meetings.

LEG. FISHER:

Family group would be like six kids and the leader, an adult?

MS. NILSEN:

Yeah.

LEG. FISHER:

Okay. Are the adults teachers or counselors?

MS. NILSEN:

The adults do participate a lot and they help in getting the discussion rolling, but we have student leaders, they organize a lot of the stuff and they mediate all the discussions.

LEG. FISHER:

What town are you from?

MS. NILSEN:

I am from Sag Harbor.

LEG. FISHER:

Oh, so you did have a ride.

MS. NILSEN:

Yeah, I got up at 4:30.

LEG. FISHER:

Well, congratulations on your patience being here all day. Thank you very much.

D.P.O. POSTAL:

Thank you very much.

MS. NILSEN:

Thank you.

D.P.O. POSTAL:

Next speaker is Brigit Nilsen; is Brigit here?

MS. BRIGIT NILSON:

Yes. I also attend Pierson --

LEG. FISHER:

Brigit, can you hold the microphone closer?

MS. BRIGIT NILSON:

I also attend Pierson and I learned about this through my school. First of all, I'd like to say that in HUGS we like to help people. Like, for instance, during lunchtime there was a fire on I think it was 111, we went down that street, everybody was helping, they were running -- there were people running to their house to help. We called 911 --

LEG. FISHER:

During lunchtime today?

MS. BRIGIT NILSON:

Yeah.

LEG. FISHER:

Did any Legislators help?

MS. NILSON:

Not that I saw, no.

LEG. FIELDS:

We would if we knew there was a fire.

D.P.O. POSTAL:

We didn't know.

MS. NILSON:

Yeah, I'm sure. But as the other two said, I believe there's no way you can ever fully describe this program without being there. When you go in for the first time, like everyone, you would probably feel a little shaky like I was, but within minutes you feel like everybody understands you and you felt like it's the most comfortable place you can ever be. It's like -- if you need help you can get it, they're not there to counsel you, they're there to help support you and guide you and they care about you and it really shows. They don't tell you what to do, they basically are there to guide you. We have speakers --

D.P.O. POSTAL:

Just one minute. Could everyone please refrain from speaking and give Brigit your attention; she speaks very quietly and it's very hard to hear her if Legislators are having conversations. Go ahead.

MR. NILSON:

We have speakers, they talk about various things. And then after the speakers we go into family group and there we talk about what they said but we also talk about what we think and how we feel and what our pasts have been like to associate with that.

I think it will make a difference in your life if you attend one of our meetings. I've met people on the verge of seriously damaging their lives, HUGS turned it around and now they're alive because of HUGS' help and showing that they understand. If you would furthermore like to know about this, the Human Understanding and Growth Seminars Program, just go to the website at www.HUGSinc.org. Thank you for your time.

D.P.O. POSTAL:

Thank you very much, Brigit. Our next speaker is Dr. Michael Delman.

DR. DELMAN:

There are actually a few issues that I could have addressed for you today, as Legislator Alden knows, especially tobacco. But I came to present the facts after listening to various speakers for two separate days of hearings on Ephedrine, so let me read the facts to you so that -- and there should be no argument about them so that you can make your decisions based upon facts.

Ephedrine is a sympathomimetic drug used over 5,000 years in Chinese traditional medicine; that's a fact. Its present use, however, in traditional medicine is restricted to the IV dosing of Ephedrine when blood pressure drops during spinal anesthesia. Because of drug diversion and the possibility of serious Ephedrine induced cardiovascular and the central nervous system side effects, at least 21 states of past regulations which are stricter than those of the Federal government in terms of regulating and labeling the use of Ephedrine, over the counter and otherwise. Ephedra alkaloids are associated with serious cardiac and central nervous system complications in some individuals when the product in particular has been used for -- or misused as an agent for weight loss. Arrhythmias can occur following high doses. Ephedrine increases systolic and diastolic blood pressure. Ephedrine has a stimulating effect on the central nervous system.

Secretary Thompson, on October 8th of 2002, urged strong warning labels for Ephedra; in fact, quote, "The strongest possible," until the drug could be studied further. A public meeting on the safety of Ephedrine was conducted in 8/2000 -- by the way, by a womens group because I heard somebody speak about women. The cardiac effects of Ephedra lasts ten times longer than epinephrin and the increased heart rate and blood pressure of predominantly those effects. It has a psychoactive effect of the central nervous system, but the research and primates indicates that it destroys dopaminergic neurons in the brain and therefore those effects would be permanent. Both the benefits and adverse effects can be reasonably predicted from the known metabolic effects of the compound.

Adverse event recordings are anecdotal and circumstantial and therefore opinion is divided on the value of voluntary adverse event recording. Chinese traditional medicine uses Ephedra for short-term treatment of upper respiratory problems and has never used it as a weight loss agent. The ethicacy of Ephedra for weight loss and body building specifically is not supported by a large number of high quality randomized controlled clinical trials; in fact, few trials reported were small and short term and involved only healthy individuals. The doses and durations of uses recommended by the industry are empiric and not supported by clinical evidence.

D.P.O. POSTAL:

Dr. Delman, I'm sorry, your time is up but there are questions; Legislator Fields, Legislator Alden, Legislator Fisher.

LEG. FIELDS:

Do you have any other facts to tell us?

DR. DELMAN:

Yes, I do. Number one, the mild adverse effects are more commonly reported than severe effects as one would suggest from the literature. Dosage recommendations vary anywhere from eight to 25 milligrams. And interestingly enough, if you talk about labeling because everybody says, "Well, we'll label it and they'll do better. We won't sell it to the kids but we'll label it for the adults." Okay, here's what happened with a thousand adults; 66% read the label always or most of the time, 25% found the labels difficult to interpret, 32% took more than the recommended dose, 22% used longer than was recommended. So there's a need for high quality studies on this.

You know, the thing that you must remember, don't throw the baby out with the bath water. The use of Ephedra as a weight loss agent is what's being abused, aside from what Legislator Alden has picked up in terms of our kids using it. This -- herbalists' use of Ephedra, to which I have no objection, we're only banning the sale, I agree with Legislator Cooper, we're banning the sale. If they really feel that this drug is necessary for the treatment of their patients, they can dispense it to their patients or they can suggest that they get it somewhere where it's legal to get. But don't sell our people short because you don't want to offend the herbalists, I mean, that's absurd.

D.P.O. POSTAL:

Are there -- Legislator Alden.

LEG. ALDEN:

I was just going to give him a question to keep going.

D.P.O. POSTAL:

Okay. Let's see, there were other people who were actually on the list.

LEG. FISHER:

Yes, I was on the list.

D.P.O. POSTAL:

Legislator Lindsay and then Legislator Fisher.

LEG. LINDSAY:

Yes, Doctor, you mentioned in your testimony that 21 states have taken some kind of action as far as banning Ephedra; do you know of any counties that have done something similar to that?

DR. DELMAN:

There is one county but I don't remember which county it is.

LEG. LINDSAY:

Twenty-one states and you maybe know of one county.

DR. DELMAN:

Maybe one county, yeah.

LEG. LINDSAY:

Okay, thank you.

D.P.O. POSTAL:

Legislator Fisher?

LEG. FISHER:

Doctor, I'm a little confused as to what your position is with regards to this particular bill because what you're saying in many ways sounds similar to how I feel. Do you feel that there is a need for further study?

DR. DELMAN:

Absolutely.

LEG. FISHER:

Do you agree that there are some uses that are very legitimate, homeopathic uses that are legitimate?

DR. DELMAN:

I think Dr. Grollman's answers to those same questions were superb as was his entire

discussion. The answer to that is the following; there are ten alkaloids of Ephedra in Ma Huang that we know of, there are many, many other alkaloids in Ma Huang that may or may not be active. If you're going to study a compound, the first thing you must do is isolate it so that you know what the compound is and what the dose is that you're going to study; that has never been done. And indeed, I would say that the industry, if they were really interested in public health, would have done that because they certainly have the resources to do it.

So the fact of the matter is that while Ephedra does dilate the upper respiratory, the bronchial -- the bronchi and does have some effect on the nasal passageways, as Dr. Grollman pointed out, there are many traditional agents that can be used where we know the quantity and therefore can predict the side effects that are much safer to use than a drug of unknown quantity.

LEG. FISHER:

Did you also state, I wasn't certain if I heard this correctly, that it was the misuse of Ephedra in dietary supplements that was in diet fads and in weight loss that is of primary concern to you, its use?

DR. DELMAN:

That and the misuse by teenagers, or actually by body builders --

LEG. FISHER:

As speed, yeah.

DR. DELMAN:

-- also of concern, that's a public health risk. And sometimes we have to bite the bullet and make something illegal because it's more risk than it is benefit, and you always have to weigh the risk versus the benefits.

LEG. FISHER:

Okay. So you see a complete ban as the approach here.

DR. DELMAN:

I wanted to give you the facts, which I think I did, because nobody can argue with the facts. But if you ask for my personal opinion as an addictionologist, the answer is you have no choice but to ban it, it just -- you literally have no choice if you have any understanding of addiction

medicine.

LEG. FISHER:

Thank you, Doctor.

D.P.O. POSTAL:

Before -- thank you, Dr. Delman.

LEG. COOPER:

Maxine, I have a question.

D.P.O. POSTAL:

Okay. Just before this question is asked, I would ask Legislators to please try to avoid asking questions of the speakers because we're going to go to the agenda in about ten minutes. If we don't ask questions we can give more speakers an opportunity to speak during those ten minutes. Go ahead, Jon.

LEG. COOPER:

Dr. Delman, I believe that --

LEG. BISHOP:

I see it worked.

LEG. COOPER:

-- you head the Chemical Dependency Program at Southside or you're involved in that program?

DR. DELMAN:

Yes, I do, I head it.

LEG. COOPER:

Could you explain -- does Ephedra have an effect, the use of Ephedra have an effect on the recidivism rate on people that have gone through that program, and if so how?

DR. DELMAN:

The answer is that there are no studies on whether or not Ephedra or any other herbal agents have an effect on the recidivism rate for people who suffer from addiction. However, we do know that people who suffer from addiction have permanent changes in the neurophysiology of their brain so that they remain addicts for virtually their entire life once they become addicted. Ephedrine and Pseudoephedrine are similar in their effect on the brain to amphetamines. And since there is dopaminergic destruction with amphetamines, we all know that, we can postulate that if we did a study we might find the same; I'm not going to tell you the study was done because it's not.

LEG. COOPER:

Also, the call for a study, I also agree that further study is done. My position, though, is that the study should have been done before these products were allowed on the market. Because of the 1994 law that Congress passed --

D.P.O. POSTAL:

Jon, this is a question; please keep it brief and make it a question.

P.O. TONNA:

We've got tons of --

LEG. COOPER:

Okay.

P.O. TONNA:

I'm back. Jon, we've heard this, we know. Just ask him a question or you get a hundred more opportunities here.

LEG. COOPER:

Thank you, Dr. Delman.

DR. DELMAN:

You're welcome. Thank you.

D.P.O. POSTAL:

Thank you.

P.O. TONNA:

Thank you, Doctor. Okay, Charles Bell? See, another bite at the apple. Hey, guys, nice to see everybody.

COMMISSIONER BARTHA:

Hi. I'm Charles Bell from Consumers Union based in Yonkers, New York, we're the publisher of Consumer Reports. We strongly support the proposed Suffolk County law to ban the sale of products that contain Ephedra. We commend you for your leadership in addressing this difficult, critically important issue.

Just a point of information, there is one County in New York that has banned the sale of Ephedra to minors and that's Westchester County which passed their law in August, they also have a signage requirement for stores. But the law that you have before you is the best law that we've seen of this nature and would really be the best law that's been passed anywhere in the country. I know you've had a lot of information put before you about these things. We believe that this law is critically important because the Federal government may not act to protect consumers against the harmful effects of Ephedra for a protracted period, and at the same time we also believe this product will eventually be removed from the marketplace because of the accumulation of reporting data from the various sources that we have, including from the poison control centers where for last year 2001, for example, over 4,000 people were treated in health facilities and emergency rooms after ingesting Ephedra and there were a total of six deaths reported just to the poison control centers for one year.

We think as we continue to experience more tragedies it will become flatly obvious that this product does not belong in an over the counter environment in drug stores and supermarkets and other retail settings, and we also seriously doubt that the companies that make it will be able to continue because of liability concerns and because of negative publicity which we believe is substantially warranted.

So in the breach, however, because the Federal government is dragging its feet and is unable to act because its hands are tied, we think what can be done at the local level to protect Suffolk County consumers is incredibly important and so we urge you strongly to vote yes to ban Ephedra both for children and adults. Thank you.

P.O. TONNA:

Thank you very much.

LEG. GULDI:

Questions.

D.P.O. POSTAL:

You know --

LEG. GULDI:

They're new questions.

P.O. TONNA:

You have a question?

LEG. GULDI:

I have questions that haven't been asked before.

P.O. TONNA:

Okay, go ahead.

LEG. GULDI:

If I may. Thank you.

P.O. TONNA:

This is a democracy.

LEG. GULDI:

I have a three page handout that's on Consumer Union's letterhead under the title "Ephedra ban will protect Suffolk County Consumers". The document is unsigned; are you familiar with it?

MR. BELL:

Yeah, I'm sorry. Yes, that's mine and I take full responsibility for it.

LEG. GULDI:

The opinions expressed in this are your personal opinions or have they been approved by the Consumer Union Board?

MR. BELL:

Actually, they're our organizational view, yes.

LEG. GULDI:

And how are they approved?

MR. BELL:

Well, we have -- I work closely with our Medical Advisor, Dr. Marvin Lipman, and just about all of the content in there, except for -- has been reviewed by him.

LEG. GULDI:

All right. Now, I notice that this statement does not differentiate at all between the use of Ephedra as a dietary supplement and its use by Chinese herbalists and alternative medical practitioners; is that intentional or is that an oversight?

MR. BELL:

We didn't address that point directly. We --

LEG. GULDI:

All right. Well, let me ask the direct question then; does Consumer's Union recommend or support the ban of the use or sale or distribution or dispensing of Ephedra by Chinese herbalists and alternative medical practitioners in the course of their practices?

MR. BELL:

You know, we have not taken a specific position on that issue. We support a ban on the sale of the products in an over the counter environment. I think in general our organizational view would be we would be inclined to say that we would not like to see it dispensed by practitioners either for the simple reason that we don't think we can have two systems of medicine, one that's tested and where claims are verified and one that is experimental where products such as these products are not even registered with the Federal Drug Administration. So if consumers experience problems with these products, government regulators do not have an adequate mechanism to track what has happened and to do the basic post market surveillance.

LEG. GULDI:

But that's really even a broader indictment of alternative medicine than just Ephedra.

MR. BELL:

Well, no, we are -- we have published a number of articles on alternative medicine and we're open to -- you know, I think we've been supportive of it in places where we can find evidence to support it, so it's not meant as indictments. Actually for herbal supplements as a whole we believe that many have positive benefits, but in the case of this supplement we believe it has very dubious benefits and that it's a substantial risk to consumers and the consumers will be far better off to have it off of the retail shelves.

LEG. GULDI:

Okay, thank you.

LEG. CARACAPPA:

That's it.

LEG. HALEY:

One more.

P.O. TONNA:

Oh, okay. You have another question? Okay, Bob Wagner? And then Frank Barnes and then we're going to -- what? Just give me a second, it's not six o'clock yet, it is not six o'clock yet and we're going to go -- Bob wagner and then Frank Barnes.

[RETURN OF COURT STENOGRAPHER-LUCIA BRAATEN]

MR. WAGNER:

Thank you for taking the time, I appreciate it. I've been here since.

8 o'clock this morning. Somehow, my card just got buried to the back of the pack. I don't know how that happened, but I'm sure it was an accident.

First of all, there's something that's really eating me and I just need to say this before I get into the issues, because a lot of things that you heard today are just point blank not true. And the

first thing I want to say is I'm in complete support. As an independent business owner in Suffolk County, a lifelong resident, in the proposal that Legislator Alden and Legislator Fields, and I believe there were a couple of other members who cosponsored Bill 2153, I'm in complete support of that, and would strongly urge you to vote against the bill that's been proposed by Legislator Cooper.

I find it very appalling this morning that he did not feel it important to listen to what the public had to say about Ephedra, not only disrespectful to his colleagues here at the governing body of the Legislators, but I want it also to be known that he felt it important to have moles in my meeting. While we were discussing this issue, he had his assistants sit in and say that they were representatives of GNC last month. Now, I just think it was just a complete disrespect to residents of Suffolk County, and we are -- I'm appalled with it. I mean, I just can't believe what's gone on here. You've heard things about the FDA that just aren't true.

I mean, the FDA, last month, on October 8th, when we were here speaking, took the action to ban a product called Yellow Jackets that was an herbal product that it had evidence was not safe and it acted on it. The reason that you keep hearing this Dietary Supplement Health Education Act, that is not true. When they found there was evidence that there was a product being marketed to children, an herbal product that was not safe, they acted, they acted swiftly, responsibly, and it is off the market. They will act when they need to act.

This product does not need to be marketed to minors, it should not be marketed to minors, and it needs to be labeled responsibly, but that's all that needs to be done. As consenting adults, we have a right to use vitamins and herbs. I have a right to buy cigarettes, I have a right to drink alcohol, and I have a right to choose a supplement of my liking.

It should not be available to children, and we agree, but, I mean, information you heard today, we gave you a leaflet last month of scientific data, okay, of scientific data about this. You heard a lot of opinions today, but you didn't hear any scientific data today. Thank you.

P.O. TONNA:

Hold it, hold it. I'm sure there are going to be questions. I have one question, and then Legislator Cooper is on the list. Who else? Legislator Caracappa.

LEG. CARACAPPA:

Probably be asked before I ask.

P.O. TONNA:

Can you explain this mole thing. What are you talking about? I mean, this is the first I've heard -- I've heard --

LEG. TONNA:

Can I explain?

P.O. TONNA:

No, no, you're not -- you don't have a card filled out yet. But I just -- you know, this is something I might even stay up all night and thinking about and not having Ephedra. So, please, just tell me, what is this?

MR. WAGNER:

We had a meeting in my office, my private training center, to discuss how to proceed forward when we were made aware of this proposed ban, and he had at least one of his assistants, because she's here, in that meeting. I believe it was another assistant, too.

P.O. TONNA:

Hold it. Hold it one second, sir. Nobody can hear what you're saying.

LEG. BISHOP:

You haven't been here for four hours.

P.O. TONNA:

I've been quiet, I've been quiet. At least I've been quiet, I've been very quiet.

LEG. LINDSAY:

Because you weren't here.

P.O. TONNA:

There you go, so I've been quiet. Sir.

MR. WAGNER:

Yes.

P.O. TONNA:

He's made an allegation. I want to hear the gentleman's concerns. Go ahead, sir.

MR. WAGNER:

When we were first made aware of the proposed legislation that was brought forward by Legislator Cooper, we had a meeting in my private office, my training facility.

LEG. FISHER:

Can you just define what the office is and who the "we" is?

MR. WAGNER:

Oh, my wife --

LEG. FISHER:

We don't know who you are.

MR. WAGNER:

My wife and --

P.O. TONNA:

Wellness International office?

MR. WAGNER:

No, no. Wellness International is a wholesale supply company. We -- my wife and I are independent business owners for Wagner and Company, a marketing and distribution company. We're at 3900 Veterans Memorial Highway in Bohemia.

P.O. TONNA:

Okay, thanks.

MR. WAGNER:

We had called for a meeting to discuss how to move forward with this, and in our -- as a matter of fact, there was -- it was this rally here, the flier is on this. And we had everybody that came into the meeting introduce themselves and just -- and most of the people we knew, because we're in the industry for ten years, but two of the people we didn't know, and they represented themselves as being from GNC. And when we came here the next day for the hearing, okay, they were his Legislative Aides. I mean, it was -- I know it's not illegal, but, man, if that ain't unethical, I don't know what is, really. I mean, I don't -- I'm appalled at it, I really am. I've lived here my whole life. Nobody's been prouder of being a Suffolk County resident than me and I'm appalled with that. I just think it's dirty pool.

P.O. TONNA:

Okay. That answers my question. Legislator Cooper has a few questions.

All right. Try not to get --

LEG. COOPER:

I've been advised to take some deep breaths.

P.O. TONNA:

Okay.

LEG. CARACAPPA:

Yes or no?

LEG. COOPER:

Isn't it true?

P.O. TONNA:

This isn't one of those Mrs. Green in the consortium with the led pipe, is it? Come on.

LEG. COOPER:

Can I answer it?

P.O. TONNA:

No.

LEG. COOPER:

It's kind of hard to do this in a question.

P.O. TONNA:

Well, it doesn't matter. You have to ask him questions. This is the public's --

LEG. COOPER:

Okay.

P.O. TONNA:

-- time to speak. You're going to get plenty of time to speak.

LEG. COOPER:

I've got a lot of questions.

LEG. GULDI:

I want to hear them.

P.O. TONNA:

Conservative?

LEG. COOPER:

Isn't it true that the rally that was organized at your office the day before the public hearing on my bill followed the E-mail campaign that your organization, be it Wagner and Associates or Wellness International, or whatever the name, that you organized that generated, I know from office it was about twelve hundred E-mails, I think a lot of other distributors here received a lot of other E-mails, all signed Suffolk County Citizens for Health Freedom. But at least in my case, we tracked the E-mails, and it's amazing how many Suffolk County residents live in the Netherlands, South Africa, Germany, England, California, Texas, throughout the country.

P.O. TONNA:

What is the question?

MR. WAGNER:

There hasn't been one, yet, sir.

P.O. TONNA:

Isn't it so?

LEG. COOPER:

Isn't it so?

P.O. TONNA:

Okay, go ahead.

MR. WAGNER:

What was the question?

LEG. COOPER:

So isn't it true that that rally --

P.O. TONNA:

Mr. Wagner, he's asking you, isn't this so?

LEG. COOPER:

That the rally grew out of, after that E-mail campaign, you had an open notice on your website advising people if they --

MS. LOMORIELLO:

To come.

LEG. COOPER:

Thank you, Barbara.

MS. LOMORIELLO:

You're welcome, Jon.

P.O. TONNA:

Were you there, Barbara?

LEG. COOPER:

I had to consult with my mole.

MR. WAGNER:

Yes, yes, she was one of the people there.

MS. LOMORIELLO:

He invited people.

MR. WAGNER:

The problem I have with it is, when asked to identify themselves, they identified themselves as representatives of GNC. Therefore, we made the assumption that -- let's face it, there's two sides on the issue. We made an assumption that, obviously, they're on our side of the issue.

LEG. COOPER:

Okay.

MR. WAGNER:

So, yes, there was an E-mail campaign.

AUDIENCE MEMBER:

Bob, it was taped and the lady said it was for GNC.

P.O. TONNA:

Wait, wait, wait. Can I say something, just because we're trying to keep things for the record. Legislators believe --

MR. WAGNER:

We do have the whole thing on video tape.

P.O. TONNA:

-- read the record. I'm sure they all read the record, so just all I would ask is that everyone gets a chance to fill out a card, and by four o'clock in the morning, we're going to be able to hear everybody. General questions? Do you have another question, Legislator Cooper?

LEG. COOPER:

Yes, I do. Could explain to those around the horseshoe that may not be familiar, what is an MLM, and how does it operate?

MR. WAGNER:

An MLM is a short version for multi-level marketing. It's a method in which payment is paid to people for advertising or endorsing a product. It's a method of payment.

LEG. COOPER:

It's been compared by various people to something similar to Amway or similar to a pyramid scheme. How would you classify it?

MR. WAGNER:

Well, I'm not really sure what this has to do with Ephedra, but --

LEG. COOPER:

It has everything to do with Ephedra.

MR. WAGNER:

-- a multi-level marketing company is -- has nothing to do with being a pyramid. I mean, it's just a legitimate way of paying sales representatives for their endorsement on products.

LEG. COOPER:

My understanding, and correct me if I'm wrong, is that the higher you're up on this pyramid, so to speak, if you set up a distributor, you get a percentage of his sales or profits, if he sets up a distributor below him, you get a percentage of that, on and on and on. So the higher you are, the earlier that you join the MLM, which in this case is Wellness International Network, the more money you make; is that correct? That's a basic concept, at least according to your website.

MR. WAGNER:

No, actually that's not correct.

LEG. COOPER:

How is it incorrect?

LEG. TOWLE:

What does this have to do with the bill? This has nothing to do with the bill.

P.O. TONNA:

Listen to me. All I can say is this: Legislator Cooper is allowed to ask this gentleman any question he wants, and I'm going to tell you why, because every single one of us, myself included, in the last number of years that I've been in the Legislature, has had a situation where probably 17 other Legislators wondered, "Where are you going with this questioning?" I'd like to see where he goes with this questioning, and I'm sure some of you would like to see this. This is very interesting.

LEG. COOPER:

There's a method to my madness.

LEG. TOWLE:

How about in this lifetime, though?

P.O. TONNA:

I know, I know.

LEG. TOWLE:

All right? I'm concerned I'm not going to make my next birthday at the way we're going at this point.

P.O. TONNA:

Well, all I can say is it's better than light pollution. Go ahead, Legislator Cooper. I would say, though, that I hear that people -- oh, forget it. Just ask your questions of the speaker.

LEG. COOPER:

Trust me, people, this is going to get interesting fast. So, can you explain --

LEG. TOWLE:

So the turtle says.

LEG. COOPER:

So how does it operate, then, if I was incorrect? I could hand out copies of your website that basically explain exactly what I just said, but if I'm wrong, if you could interpret it for us.

MR. WAGNER:

Oh, you're very wrong, it doesn't explain what you just said.

LEG. COOPER:

Okay.

MR. WAGNER:

The timing of which, when a person were to join a multi-level marketing company, has no bearing on whether they earn money or not. The amount of effort they put in to sampling product or selling product, or sharing their opportunity with other people determines the money they earn, and that's really clearly found in any company. You've got people that have been involved in business for six months who earn more money than people who have been involved for three years, so it's just a false accusation.

P.O. TONNA:

Legislator Cooper, I would just ask you, being the Chairman of Economic Development, what does this have to do with the banning of Ephedra? And I would like you to ask him quickly, because, to tell you quite honestly, as long as it's legal on how they sell their products, whatever products they are, as long as it's legal, what does that have to do?

LEG. COOPER:

Because --

P.O. TONNA:

I mean, why would this guy want to come and, you know, tell you about his business?

LEG. COOPER:

The basic assumption that I'm working under, and the purpose of my introducing the bill in the first place, was several fold. Number one, and there's some things that no one disagrees with --

P.O. TONNA:

Ask him the questions. I just asked you a question. Just ask him the questions. We'll see. I don't -- you're going to have a time to -- you're going to have -- you're going to have ample time.

LEG. GULDI:

Are you finally holding yourself to be out of order?

LEG. TONNA:

Yeah, I'm out of order. Go on with the questions.

LEG. COOPER:

If I could paint a picture, you'll understand much better.

P.O. TONNA:

I don't want a picture painted right now. All right? I'll be up all night thinking about it. Just, please.

LEG. COOPER:

If someone is -- wants to be a distributor, a WIN distributor, what's the normal buy-in for that?

MR. WAGNER:

There's no required buy-in. A membership fee is \$49, and then the person has the option, if they want to purchase inventory.

LEG. COOPER:

But, typically, what have people been known to --

MR. WAGNER:

There is no average. It all depends on a person's financial situation.

LEG. COOPER:

I've spoken to several former distributors of your company, several whom I believe are suing you now, that invested 40,000, 100,000, a quarter of a million, \$500,000 in your company, one of them, the wife of one of your --

P.O. TONNA:

Jon, Jon, Jon, can I -- all right. This is what's going to happen now. What's going to happen is we are going to take a recess for a few minutes, okay, if -- this is not a time to -- this gentleman came here to tell you his opinion. He asked -- he is entitled to his opinion. Ask him questions about the comments that he made with regard to his -- later, if you want to do -- maybe I can have Jim book you guys on, you know, Crossfire.

LEG. TOWLE:

Geraldo.

P.O. TONNA:

Okay? But right now, all I'm saying is, please, just stick to the banning of Ephedra. I think it would behoove you and those people --

LEG. COOPER:

You've made a statement --

P.O. TONNA:

-- like myself who support you.

LEG. COOPER:

You made a statement that the FDA couldn't -- could ban these products, if they wanted to, and you referred specifically to Yellow Jacket. Are you aware that the FDA, when they sent out their release advising that that product was being banned, that wasn't the term that they used, but basically banned, they went out of their way to say that they were able to do it, because it was not a dietary supplement. They banned it, because it basically legal speed. And had it been classified as a dietary supplement, they would not have been able to ban it; are aware of that? I have the --

MR. WAGNER:

What is the question, am I aware of that? I'm aware that the product --

LEG. COOPER:

You made the statement that, as with other dietary supplements, the FDA could ban them, if they so wanted, and you gave the example of Yellow Jacket. Yellow Jacket was banned specifically because it was not classified as a dietary supplement; are you aware of that?

MR. WAGNER:

That was not my statement. My statement was, when the FDA found something to be not safe, they acted quickly and swiftly and removed it from the market as they could with any product they saw fit.

P.O. TONNA:

All right.

MR. WAGNER:

That's my statement.

P.O. TONNA:

All right.

LEG. COOPER:

But, again, it's not a dietary supplement, because of the --

P.O. TONNA:

No, no, question, question. I know that my colleagues won't even overrule me on this; okay?

LEG. TOWLE:

Unanimous, unanimous.

P.O. TONNA:

It would be almost unanimous. Any other questions, Legislator Cooper?

LEG. COOPER:

No further questions

P.O. TONNA:

Okay. Thank you very much, sir.

MR. WAGNER:

Thank you.

P.O. TONNA:

Thank you. Okay.

MS. BURKHARDT:

We need to stop.

P.O. TONNA:

I know. I have one more speaker, and then this is about smoking, though, a very noncontroversial issue; okay? So I ask Frank Barns, and then after that, we are going to -- it's six o'clock. We're going to go into voting. Thank you.

MR. BARNES:

Thank you. That's a tough act to follow. I just want to take a minute --

P.O. TONNA:

Is your business being sued? No, I'm joking.

MR. BARNES:

No, no, no, no.

P.O. TONNA:

Three minutes. There you go, sir.

MR. BARNES:

Okay. My name is Frank Barnes. I'm an asthmatic. I stopped smoking 37 years ago. But about eight years ago, I embarked on a program to try and find a way to contain and eliminate environmental tobacco smoke. And after two years of research with some of the largest companies in America and in many parts of Europe, I came to the conclusion that I couldn't do it effectively unless I contained the smoke itself and didn't let it get out into the environment before it was filtered. We built three units based on that concept and we put them into the Richmond International Airport, because they were having a problem with smoking. After a couple of years, these are the kinds of comments that they had, if you can look at the middle panel on what I just gave you.

The Director of the airport said, "We were surprised that such a simple system can be so effective in solving such a complex problem. Not only are we pleased, but there have been -- there's not been a single smoking related complaint in the three years the system has been in.

We then turned around and decided to test it in the laboratory. We hired one of the -- one of the world's best known indoor air scientists who tested it for a period of 18 months. His work is now finished. The report is due out in a couple of weeks. I've spoken to him and his response is he's just never seen anything like it. What we've done is completely eliminate environmental tobacco smoke in the right environment.

So with reference to Mr. Foley's bill concerning secondhand smoke in the workplace, I would just like to submit that we think there is verifiable proof from the best people in the world at that you can, in fact, eliminate it in certain environments.

P.O. TONNA:

Thank you, sir. Thank you very much. And thank you for waiting so long. Okay. We are now -- I am making a -- I guess we are going to recess the public portion and move with the rules of the Legislature to move to the agenda.

LEG. BISHOP:

There are people that have been here all day.

MS. BURKHARDT:

Do the levy first.

P.O. TONNA:

Do you want to do the levy first?

MR. SABATINO:

It's not really a recess, because what's happening is the public portion is not being extended, so what will happen is we'll go to the agenda and then the public portion will occur at the conclusion of the agenda.

P.O. TONNA:

Okay.

LEG. BISHOP:

Mr. Chairman.

P.O. TONNA:

Four times the amount that has been heard.

LEG. BISHOP:

Mr. Chairman.

P.O. TONNA:

Yes.

LEG. BISHOP:

Why don't you just perhaps, because this Legislature has always been about openness and fairness, there are people who have been here all day, why don't you just see -- I know you have 40 cards, but there's probably only four or five people here.

P.O. TONNA:

I don't think so.

LEG. BISHOP:

And if Legislators would refrain from entering into leading questions --

P.O. TONNA:

Listen, you're asking Legislators to do something -- this has been a Legislature that loves to enter into dialogue, that loves to make statements and then phrase them into a question. This

is a Legislature that has shown no discipline whatsoever in dealing with the public portion of -- you know, of our agenda.

LEG. BISHOP:

Well, then maybe we should -- maybe we should -- maybe we should endure our bad habit and stick to our principle of being open.

P.O. TONNA:

Listen to me, we're going to do the tax levy, we're going to do the agenda. If you want to make a motion and see if you can get a rallying cry of other Legislators who would love to go through 40 cards --

LEG. BISHOP:

Yeah, I'd like to make a motion to extend the public portion.

P.O. TONNA:

To?

LEG. BISHOP:

I don't know how many people are actually here who have been here all day. I don't know.

P.O. TONNA:

We have this many cards.

LEG. BISHOP:

One, two three, four, five, so 45 minutes, to 7 o'clock.

P.O. TONNA:

Okay.

LEG. GULDI:

Second the motion.

LEG. FISHER:

Second.

P.O. TONNA:

All right, fine. Roll call.

LEG. BISHOP:

And I would ask my colleagues not to ask questions, especially questions --

P.O. TONNA:

Well, that's not part of a motion. Just go right ahead.

LEG. ALDEN:

On the motion.

P.O. TONNA:

Anybody who wants to ask a question will be recognized.

LEG. ALDEN:

On the motion.

LEG. BISHOP:

You'd love it.

P.O. TONNA:

On the -- all right. Roll call.

LEG. CARACAPPA:

I have a question. No.

P.O. TONNA:

Roll call. There's a motion by Legislator Bishop, seconded by Legislator Guldi to extend the public portion for 45 minutes; am I correct?

(Roll Called by Mr. Barton, Clerk)

LEG. BISHOP:

Yes.

P.O. TONNA:

He's a yes.

LEG. BISHOP:

Yes, I'm a yes. Yes.

LEG. GULDI:

Yes.

LEG. CARACCILO:

Yes.

LEG. TOWLE:

No.

LEG. CARACAPPA:

No.

LEG. FISHER:

Yes.

LEG. HALEY:

No.

LEG. FOLEY:

Yes.

LEG. LINDSAY:

Yes.

LEG. FIELDS:

Yes.

LEG. ALDEN:

Yes.

LEG. CARPENTER:

Yes.

LEG. CRECCA:

Dinner break.

P.O. TONNA:

Dinner break. Need a dinner break.

LEG. BISHOP:

Only Brookhaven Republican.

LEG. CRECCA:

Yes.

LEG. NOWICK:

Yes.

P.O. TONNA:

No, I'm with them, only on this issue, but I'm with them.

LEG. BINDER:

No.

LEG. COOPER:

Yes.

D.P.O. POSTAL:

Yes.

P.O. TONNA:

No.

LEG. BISHOP:

Now, I can't make this a motion, but I can make a plea to my colleagues.

MR. BARTON:

13.

LEG. BISHOP:

Enough with the leading questions. Stop with the questions. Let's just --

LEG. CARACAPPA:

Now you say it.

LEG. TOWLE:

You're doing it yourself. You're not even being recognized.

D.P.O. CARACAPPA:

You've been doing it all day.

LEG. BISHOP:

Show me when I've done one today.

P.O. TONNA:

Okay.

LEG. TOWLE:

You haven't even been recognized and you're talking.

P.O. TONNA:

We have Marian Callahan.

LEG. TOWLE:

You can't even listen to your own rule.

P.O. TONNA:

Marian Callahan.

LEG. BISHOP:

We could get through this in 15 minutes.

P.O. TONNA:

Now, I've been known -- I've been known to mess up -- if your name is -- even sounds close, raise your hand. Karen Schlendorf. Schlendorf. She's right here. She's right here. Karen. Karen, how do you pronounce that?

MR. SCHLENDORF:

It's Schlendorf.

P.O. TONNA:

Schlendorf, okay.

MS. SCHLENDORF:

Okay. Thank you. And thank you for extending this portion, since we've been here, a lot of us, all day. My name is Karen Schlendorf and I testified before you once before in September about how the Dietary Supplement Act affected our family.

My son, Peter, died as a result of ingesting an over-the-counter herbal supplement containing Ephedra. Pete Schlendorf was a healthy, in shape 20 year old student athlete at the University of Albany at the time of his death. Not only was he a wonderful young man, who we were very proud of, but he was the least likely person to have made such a fatal mistake. He was on spring break with some friends when they decided to try a product that had been advertised all over the beach as a safe and energy enhancing natural supplement. They had no reason to believe that what they were taking was potentially dangerous. The clerk in the store told the boys that she took ten or more of these tablets at a time and felt great. Some of the boys did

take more than the recommended dosage. Although we'll never know for sure, we believe that Pete took either four, which was the recommended dosage, or possibly as many as six. But they all thought that they were taking something as harmless as a second scoop of ice cream. A naive mistake, a stupid mistake, but for my son, it was a fatal mistake.

We have a copy of his autopsy. That autopsy proves that there was nothing else in his system, no drugs or alcohol, only what was in this safe and harmless herbal supplement. The manufacturers of the product that killed my son, {Ultimate Exforia}, were unscrupulous. They cared only about the profits that they would make and not about the damage that they would do. But they did nothing illegal. Immoral, yes, unethical, yes, but not illegal. Under the Dietary Supplement Health and Education Act, they had every right to manufacture and sell their product.

I read a quote by Mr. Wes Siegner, who is the counsel for the Ephedra Education Organization, stating that the product my son ingested was illegal. I only wish that was true. Unfortunately, it is not. And that this bill is an overreaction to misinformation. What misinformation?

I've been told by many experts and researchers that there is no such thing as a safe level of Ephedrine. What may be perfectly safe for you may not be safe for me, and the only way you will know that is if you have an adverse reaction to Ephedra.

Under the Dietary Supplement Act, herbal companies are not even obligated to report adverse reactions to the FDA, and the self-reporting system of the FDA is extremely inadequate. However, these are the only hard figures we have. I believe that these figures are vastly underreported, but we know of at least 100 deaths and over 500 cases of serious adverse reactions; heart attacks, seizures, strokes, etcetera.

After Pete died and we came to understand what had killed him, we asked the herbal supplement industry to place a warning label on these products. We testified for the New York City Board of Consumer Affairs, who were addressing these same concerns, and wanted a warning posted about the possible harmful effects of these products. In every case, this multi-billion dollar industry brought out their top lobbyists to defeat these measures. I have never been able to understand what they are so fearful of the public knowing the truth of these products.

Does Ephedra work? Absolutely. You only need to understand how it affects the body to understand how these products work. They speed up your heart rate, they increase your blood pressure, among other things. Ephedrine is the top money-maker for these companies, and I'm not so naive that I don't understand what's really at stake here.

P.O. TONNA:

Ma'am. Your.

MS. SCHLENDORF:

Yes.

P.O. TONNA:

Your time is up. Maybe just if you could summarize your comments.

MS. SCHLENDORF:

Ephedra kills people. Am I so wrong. I believe, and understandably so, that I have negative feelings about companies that put profits above the health and well-being of its customers. I'm not saying that companies represented here today are as reckless as the one that killed my son, but they do have one thing in common, they're using the drug Ephedrine as an herbal supplement with no possible way of knowing the consequences for the people consuming these products. Thank you.

P.O. TONNA:

Thank you very much, ma'am. Michael Masciello, Masciello, followed by Robert Oliver. That's after --

DR. MASCIELLO:

I have copies of my testimony. Do I -- can I hand it out?

P.O. TONNA:

Michael, how do you pronounce your last name.

DR. MASCIELLO:

It's Masciello.

P.O. TONNA:

Masciello.

DR. MASCIELLO:

Michael Masciello.

P.O. TONNA:

Thank you.

DR. MASCIELLO:

My speech started out with "good morning", but it's not good morning anymore, okay, it's good evening.

P.O. TONNA:

Welcome to the Suffolk County Legislature.

DR. MASCIELLO:

Good evening, Presiding Officer Tonna, and distinguished members. I'm Dr. Michael Masciello. I'm a cardiologist, I'm a father, I have four children, and I'm also a Board Member of the American Heart Association, and I'm also a Long Islander. I grew up in Long Island, I grew up in Hicksville. I grew up in Hicksville when Long Island was Disney World. Fifties and sixties, everybody played outside. There were trees, there were forests. I think maybe I went to a restaurant once throughout my high school career. My dad was a New York City cop, my mother worked for Grumman. My dad, my mother and my aunt smoked cigarettes.

1967, I left Long Island, I went to West Point, I went to the United States Military Academy, and I went there, because my mother wanted me to go there. She didn't tell me there was a war going on, but that's where I went. They fed you good at the United States Military Academy, and they gave you C-rations and they also gave you cigarettes when you went out to battle, but in the '60's, we didn't know the dangers of cigarette smoking.

In 1976, after I got out of the service, I went to the United States -- I went to the University of Miami Medical School, once again, because my mother wanted me to go to medical school. I remember sitting at the dining room table, not quite as big as this room here, with my --

LEG. BISHOP:

You wish you had your mother here.

DR. MASCIELLO:

With my mother, my father, and my aunt, and I had all this knowledge about smoking and how bad smoking was for you. My dad, rest his soul, was a great guy, and I said, "Dad, you know, smoking is bad for you." And he said to me, "Ah, smoking's not bad for you, I don't inhale cigarettes." Well, maybe he didn't inhale his cigarettes, but he ended up having a laryngectomy, because he had gotten laryngeal cancer from his smoking, and subsequent to that, he died of esophageal cancer, which is also a direct result of his smoking. Fortunately, my mother and my aunt stopped smoking and they're alive today.

Smoking is a weapon of mass destruction. It kills people. It's mind-boggling to me that I have to sit up here in front of Legislators and tell them how dangerous smoking is. It's 25 years since I sat at the dining room table with my dad, and I wasn't able to convince him how bad smoking is. Well, this 25 years have past, and now we're at the stage where I was 25 years ago with smoking. We're now talking about secondary smoke. And there's no question that secondary smoke is a weapon of mass destruction and it kills people. And anybody who doesn't see that is just closing their eyes to something that is true and fact, and five years from now, ten years from now, you're going to look back and you're going to say, "I allowed people to smoke cigarettes in public places and I was wrong."

I'm giving you an opportunity and we're giving you all the opportunity in Suffolk County, and I love Long Island, is to vote for the proposal 2020 to ban smoking in public places.

I'd just like to summarize, because I am representing the American Heart Association, by saying the American Heart Association Council on Cardiopulmonary and Critical Care has concluded that secondhand smoke is a major preventable cause of cardiovascular disease and death. The Council strongly supports efforts to eliminate all exposure of nonsmokers to secondhand smoke. This requires that secondhand smoke --

P.O. TONNA:

Sir, hold it one second.

DR. MASCIELLO:

-- be treated as an environmental toxin.

P.O. TONNA:

Your time is up, and I just want to -- maybe you could summarize your comments.

DR. MASCIELLO:

That's it. It's an environmental toxin, it's a weapon of mass destruction, we shouldn't allow it.

LEG. BINDER:

Mr. Chairman.

P.O. TONNA:

Okay.

LEG. BINDER:

Just one question.

P.O. TONNA:

Oh, okay. Go ahead, Legislator Binder.

LEG. BINDER:

All right. Could you just tell me if you would support legislation stopping people from smoking in cars with children in the cars?

DR. MASCIELLO:

You know, my -- like I told you, smoking is bad. You know, I would take any step possible to get rid of smoking. Do I think smoking in cars is bad? Yes, sure, of course I do. I'm here as a representative to the American Heart Association --

LEG. BINDER:

I'm not asking -- I'm asking you, as a doctor.

DR. MASCIELLO:

I personally believe that you should not smoke in cars.

LEG. BINDER:

And you would support legislation stopping people from smoking in cars with children in the cars?

DR. MASCIELLO:

I would. I personally would.

LEG. BINDER:

Thank you.

DR. MASCIELLO:

But I'm -- as a representative of the American Heart Association --

LEG. BINDER:

Maybe you can tell the Heart Association, lung cancer, you might tell them.

DR. MASCIELLO:

I understand that.

P.O. TONNA:

Okay. Next speaker -- thank you so much. Doctor, thank you very much for coming in. I know it's been a long wait. Robert Oliver.

LEG. FOLEY:

Mr. Chairman, the Doctor had testimony to be distributed, and has it been distributed yet?

MR. BARTON:

No. We're walking to be walking it around right now.

LEG. FOLEY:

Okay.

MR. BARTON:

It wasn't collated.

P.O. TONNA:

So that it's --

LEG. FOLEY:

Okay. Thank you.

P.O. TONNA:

There you go, for the record. Robert Oliver is not here. Rick Shalvoy.

LEG. FISHER:

He was here all day.

MS. BURKHARDT:

I think he's in the lobby.

P.O. TONNA:

Rick Shalvoy? All right. Maurice Alberts? Is there a Maurice Alberts?

MR. ALBERTS:

Me.

P.O. TONNA:

Hey, Maurice. How are you?

MR. ALBERTS:

Fine, thanks. Good evening, ladies and gentlemen. I'm here to talk about Legislator Alden's proposal to relabel Ephedra in a reasonable manner, which I agree with. I'd like to just say that the company that I'm an independent representative for, Wellness International, and our products have for the last ten years had a warning label that anybody under 18 should not be taking this product.

Finally, I would like to just add one little problem here. I would like to -- Legislator Cooper asked a question of somebody this morning about heart problems associated with Ephedra. I've been taking it for two years. I've had two quadruple bypasses. I still am taking it and I feel great. It hasn't affected me in any way, and I think there are many people who are taking this product who have had heart surgery. Thank you.

P.O. TONNA:

Thank you very much, sir. Okay. Dr. Joseph Tamburrino. No? Okay. William Stoner. That was in the public hearings. Hey, William, How are you?

MR. STONER:

Great. How are you?

P.O. TONNA:

Bill for those people who, you know, you get along with? Will? Okay. Will?

MR. STONER:

Will's fine.

P.O. TONNA:

Great.

MR. STONER:

Even with people I don't get along with. I'm here today to talk in favor of Introductory Resolution 2020. I'll keep my comments brief. You've heard me speak several times. We're to the bottom line. Lets get to the bottom line, let's get to the facts.

We all know sitting in this room that secondhand smoke is dangerous. We all know that secondhand smoke kills people. Is it okay to allow a substance that we know can kill somebody in their workplace? Is that an acceptable risk? If we can avoid this risk, why wouldn't we?

You have the power, as a Legislature, to protect thousands of lives from something they don't have to come in contact with eight and ten hours a day. Some of these people, unfortunately, have to go home and come in contact with a spouse or some other loved one. If you can avoid it eight and ten hours a day, you should. You should do everything in your power as a Legislature to do that, and I encourage you to do so.

I realize you have a lot of pressure from the Restaurant Association, from different business who are afraid that they're going to lose business, and, you know, we're not unsympathetic to these concerns. There's a lot of concern they're going to lose 20 and 30% of their business, because 20% of the population smokes. But this is all anecdotal evidence. There's no evidence that shows that these businesses are going to lose money.

I'm confident that Nassau County made a great move by passing that law, and we're going to see revenues and their businesses improve. And I would encourage you, as Legislators, to do the same for the businesses in your community and pass the same proposal to eliminate smoking in all workplaces.

Now as far as a constituent concern, I hate to, you know, rehash a very important issue, but I will. There was a professional poll done in all of Suffolk County, I'm sure a lot of your constituencies were included in this poll, that showed that, overwhelmingly, your constituency supports smoke-free workplaces, including bars and restaurants. Now, if that's the case, then as a Legislator, your charge from your constituency is to support your -- is to support them in their concerns and their interests. Maybe they're not beating down the door saying, "You know, I'm being affected at work. There's a lot of reasons why they're coming and beating down the door. There's fear on their part, too, that they're going to lose business, because they don't know the facts, and because their Supervisor I'm sure would have a lot to say if they were quoted or seen on television testifying.

So, to summarize, do the right thing today. Vote for this ban. You'll be doing a great deal, a great deal of Suffolk County residents a huge favor, smokers and nonsmokers.

D.P.O. POSTAL:

Thank you, Will.

MR. STONER:

Thanks.

D.P.O. POSTAL:

Next speaker is George Aldcroft. Is George here?

MR. ALDCROFT:

Yes, I am.

D.P.O. POSTAL:

And following him, Susan Risoli.

MR ALDCROFT:

I'll try to talk real quick. I have a lot of respect for all of you on these issues. I also appreciate the humor that you've had during the day, because it kind of breaks it up.

The reason I'm here, I know that there is some support here. I know inadvertently the HUGS Program was left out of the budget. I understand that there is some support to get it back in, because, if it doesn't get back in, you kill HUGS. I was one of the original founders over 25 years ago. We started in Mattituck, because Jim {Christie} there say, "How can we help some

kids with alcohol and substance abuse? Could we go away?" They went on a training for a weekend in Indiana, came back, says, "Can't we do it here?" Jim said, "Yes." "Would you give me a hand?" I said, "Yes", because I happened to be a counselor at that time on Shelter Island. Now I've moved and been now in Mattituck. Asked another Counselor. So we, all of a sudden, had one school, Mattituck only, with students. All of a sudden says, "Can I bring some students from Shelter Island?" "Yes." John Angel at the time, "Could I bring some students over there from Eastport?" Well, what happened through the years is it got too big, so, all of a sudden, with Collin Campbell's help and with the Long Island Council of Alcoholism, we had some seed money, and from there for the last 20 some years, the Legislature has been helping us continue that.

What I'd like to share with you, some of the schools, I don't know how many of you know, we've had West Islip, Westhampton Beach, Sayville, Southampton, Sag Harbor, Southold, Greenport, Shelter Island, Rocky Point, Mattituck, Riverhead, Rockville Centre, Holbrook, Shirley, some kids from Queens. We had facilitated Brookhaven Youth Bureau's Peer Leadership, Patchogue-Medford, Youth and Community Services, the Colonial Youth and Community, Sunshine Prevention, Sachem Youth and Community, Lifeline's Meditation, Boys and Girls Clubs of Bellport, Boys and Girls Clubs of Three Village, South Country School District, West Islip, East Islip, Port Jeff, Bay Shore and Northport. It has grown where we do over six a week and, and to maybe North Babylon.

Now, why I share that, and I may not know everyone, how many programs do you have? Where? On what weekend? You not only go there, and I think one of the strengths of the program, after being with it so many years, is that you go to a place, you're not only are getting educated about drugs and alcohol, as I've mentioned, I had one gentleman speak about his daughter, how she got in an abusive relationship. Isn't it nice that we begin to teach people, girls and guys, that you are holy things, people don't have a right to do that to you before you ever get in that situation? And then to be in an environment for a whole weekend, no matter whether you happen to be an honor student, whether you're not doing well in school, whether you wear blue hair, whether you're an athlete. See, we don't care. I get kids from all different types of backgrounds, as well as all the schools that one weekend, because I read articles in the paper, like Roosevelt, you can't even have a football game, because the kids from other schools can't learn how to get along together. Isn't it nice to know we can bring kids from all of those backgrounds, have them there in a supportive environment, and be able to relate to each other and have respect for each other?

And to me, when they take a look at the one thing here, you know, that Presiding Officer Tonna has on your website, "Let's begin to drown out the voices of hatred and intolerance by affirming the dignity and worth of all human beings." That's what HUGS does. And, hopefully, if you believe in that -- now, the one thing I did give you -- for you, just so you know, the Search Institute out in Minnesota, and I've done a lot of work with parents and a lot of research on doing parenting programs, so the --

D.P.O. POSTAL:

Right. George, I'm sorry, but we're very short of time and your time is up.

MR. ALDCROFT:

I just want to just share one --

D.P.O. POSTAL:

And we do have the handouts.

MR. ALDCROFT:

Do you? So this is -- they surveyed over 200,000 kids, so you know what kids need to be less at risk. Thank you so much.

D.P.O. POSTAL:

Thank you.

MR. ALDCROFT:

And good evening.

(Applause)

D.P.O. POSTAL:

Rick Shalvoy.

MR. SHALVOY:

Thank you very much. My name is Rick Shalvoy, I'm a resident of East Islip. I am not here as a lobbyist, I am here as a private citizen expressing my opinion. You know, if we go into a time machine and rewind a little bit, there was a time when teachers could beat kids and people could stalk people, and now we have laws against all sorts of things, which years ago we didn't have.

So I'm going to ask you to take my comments in the context of some other time possibly in the future. It that doesn't make sense about -- what I'm about to say to you doesn't make any sense in 2002, just as telling teachers that they couldn't hit kids and telling people that they couldn't stalk people 50 years ago didn't make sense.

I am a nondiscriminating opponent of making substances available or exposing people to substances that can harm them. Dr. Kessler, during most of the decade of the '90's, attempted to secure the right to regulate nicotine as a drug. Unfortunately, that attempt failed. Tobacco lobby was powerful enough to prevent that from happening. And I do not in my mind see this as any different from Ephedra. If we ban Ephedra, which I believe we should, we are still making it available as Ephedrid over the counter. I think we should ban caffeine, but we still make it available as coffee and we still have it available as Ultrapep, and all these other things that anybody can walk in over the counter and get.

So what I think we should ban, you would be amazed at the things I think we should ban, but I'm very concerned that when we do this, we will still be left with a situation where our children or anyone can walk in, and with a combination of these two, have a product similar to what -- what was it, Metabolife, or something, had the article in Wall Street Journal on. Ridiculous, ridiculous, absolutely ridiculous.

So I feel that we should get rid of all this nonsense, but are we -- my question is are we really addressing it when people can still go into the store and buy this garbage? Okay? And I don't know how we can address this, but I want you -- I want you, as Legislators, I want you to think about it, okay, because I would like -- if we're going to spend all day here talking about these things, and you're going to be asking people questions and deliberating and hearing expert testimony from Dr. Grollman and others, that when you vote, it's going to do some good, and we're going to wind up with a piece of legislation that's actually going to accomplish something, and not wind up with a situation where kids or anybody can still walk in and get this stuff. Okay?

P.O. TONNA:

Just, Rick, I want you to know it's always great seeing you.

MR. SHALVOY:

Thank you.

P.O. TONNA:

It is always great. My buddy from Robert Moses Field 3. Thank you.

MR. SHALVOY:

Thank you.

LEG. ALDEN:

Mention what he does.

P.O. TONNA:

Rows for breast cancer. He probably saved my but a number of times when people were throwing punches at me over the years, absolutely.

LEG. FOLEY:

Thank you, Rick.

P.O. TONNA:

Thank you. Okay.

DR. TAMBURRINO:

You called me. My name is Dr. Tamburrino.

P.O. TONNA:

You know what, since the precedent is already set, why not? Come on up, Doc. Wait, I just want to make sure I have the card.

DR. TAMBURRINO:

I understand you just --

P.O. TONNA:

All right. There we go.

DR. TAMBURRINO:

Yes. Thank you very much. Good evening, and I'll make this brief, because I know you've been working all day. I was here earlier in the morning. My name is Dr. Joseph Tamburrino and I am absolutely in favor of banning Ephedra to the sale of minors. I do believe that we have the right to protect our children, and a minor might not have the life experience to know that a little bit of a product is good, but too much of a product can be dangerous. So I am completely in

agreement with that. However, I do object to the fact that any administration or any law would be passed to ban the use of Ephedra.

Ephedra has been proven to be and effective. There's a Harvard study, a Columbia study, and I think I may be repeating what you've already heard all day. I can only tell you for my own self that I've been using the product for five years. It is a safe, effective means of controlling someone's weight.

We all know that diet and exercise is the best way to control your weight, but, evidently, 60% of America has failed at that. Since 60% of America is overweight, it contributes to diabetes, it contributes to hypertension, it contributes to arthritis, it contributes to heart disease. There has to be a certain amount of responsibility that a person should take. And I believe that it would be infringing upon my right to ban completely the use of Ephedra. So, therefore, I am very strongly in favor of the resolution to ban the sale of Ephedra to minors. Thank you.

LEG. FISHER:

Thank you, Doctor.

LEG. COOPER:

Just one question. Doctor, by any chance, do you distribute any Ephedra products?

DR. TAMBURRINO:

I do, but I don't have many of those products in my office. In other words, it's not a mainstay of my office. Most of the people that I have using the product are my family and my friends

LEG. COOPER:

And what is the product that you distribute, is it Biolean, by any chance?

DR. TAMBURRINO:

That is correct, it is Biolean.

LEG. COOPER:

Thank you.

P.O. TONNA:

Okay.

DR. TAMBURRINO:

Thank you.

P.O. TONNA:

Susan Risoli. Susan? Okay. Jack McCarthy. Jack? Jack, how are you? Good to see you again. Thank you for coming.

MR. MC CARTHY:

Good evening. Well, the last time I was here, I got to speak at a quarter to twelve. I'm getting there earlier and earlier.

P.O. TONNA:

There you go.

MR. MC CARTHY:

Thank you very much.

P.O. TONNA:

No problem.

MR. MC CARTHY:

I'm here to speak on 2020, and I'm part of the Restaurant Association and I'm not going to hold you up. I think everybody knows our views very well. We're vehemently opposed to Mr. Foley's bill. We have our position. I feel that the -- listening to paid lobbyists state their facts and figures, they state them wrong. They're overexaggerating everything. And it will be a drastic input on the business economy of this thing. This Legislature also years ago, I'd like to remind them they made a deal with us. We kept our part of it. The Legislature is not keeping their part of it. I feel, as businessmen in this community, we should be fairly treated. We didn't bring paid lobbyists in here and we are not paid lobbyists. Thank you.

P.O. TONNA:

Thank you very much, Jack. Alexander Taylor, M.D. Alexandra, sorry.

DR. TAYLOR:

Good evening.

P.O. TONNA:

Dr. Taylor, thank you very much for coming.

DR. TAYLOR:

Thank you for allowing me to speak this evening. My name is Alexandra Taylor, and I support the proposed legislation, 2153 by Legislator Alden and Legislator Fields, which would prevent the sale of Ephedra-containing products to minors, and I oppose strongly the Resolution 1954, sponsored by Legislator Cooper.

I am an Obstetrician/Gynecologist who has been in practice in Suffolk County for 18 years until I retired ten months ago. I am also a distributor with Wellness International Network, and I have used personally and with my patients and many other people a product with Ephedra-containing - a product that contained Ephedra, and that was used specifically for weight loss, longevity, and good health. And my results over the last five years were hundreds of patients lost more than 20 pounds and maintained their loss. Many patients with hypertension normalized and got off their medication. Many patients with high cholesterol were able to decrease their numbers and get off their prescription drugs, and those results compare favorably with a study that was conducted by { Sindler} , published in the Journal of Endocrine Practice in November of 2001. And, also, the NIH supported study out of Harvard and Columbia that was published six months ago also had similar results, where they had significant weight loss with no adverse effects.

We have provided the Health Committee with a number of well designed medical studies, including the large Cantox Report from Canada. All have failed to show any significant adverse effects of Ephedra when used in dosages not exceeding 90 to 100 milligrams a day.

At this time, Johns Hopkins University has been studying Ephedra and its effects on weight loss for two years, and we are eagerly anticipating their results. The scientific data combined fail to prove any substantial danger when used appropriately by adults.

It's my opinion that not enough attention has been given to the serious epidemic of obesity and obesity related conditions in our country, in our population everywhere around us. Anyone who has ever been in my office knows that 100% of the patients were female and 90%, or more than 90%, were always asking, in addition to their reason for being there, what could I give them to help them lose weight.

I also feel that the lack of safe alternatives has resulted in our use for natural things. The prescription drugs on the market today have side effects and are not especially effective.

So I would like to thank Legislators Alden and Fields for their serious examination of the scientific facts, which have been published in reputable journals, and for being willing to hear the concerns of their constituents before making their decisions.

LEG. COOPER:

I have a question. Dr. Taylor -- actually, three very short questions. Are you aware that Legislator Fields is also a cosponsor of my legislation?

DR. TAYLOR:

No, I was not.

LEG. COOPER:

She is. You mentioned that you were a practicing OB/GYN and you've retired recently?

DR. TAYLOR:

Yes.

LEG. COOPER:

And so now you're what, a full-time distributor?

DR. TAYLOR:

No. I started a new business, a home-based business, and I market financial services.

LEG. COOPER:

So you do not distribute Biolean?

DR. TAYLOR:

I have a website. I'm still a distributor. I can remain a distributor. Have you heard of Multiple Income Streams?

LEG. COOPER:

Yeah. But you are -- I wanted to clarify, you profit from the sales of Ephedra?

DR. TAYLOR:

That's why I mentioned it in the beginning, knowing you would bring it up.

LEG. COOPER:

Just wanted to clarify. And, thirdly, the Cantox Report that you referred to, and a couple of

other opponents of the bill referred to, are you aware of who paid for that study?

DR. TAYLOR:

Are you aware that every prescription drug on the market today was paid for by a company that stands to profit by its marketing?

LEG. COOPER:

Are you aware who paid for that study?

DR. TAYLOR:

Well, I just -- I don't know who paid for it, no.

LEG. COOPER:

Would you be surprised to learn that --

DR. TAYLOR:

I'm sure you will tell me.

LEG. COOPER:

Yes, I will. The Ephedra industry paid for the Cantox Report.

LEG. BISHOP:

Jon, you're back. You said you weren't going to come back.

LEG. COOPER:

I had three short questions. I'm done. Thank you.

P.O. TONNA:

Thank you very much. Thank you, Doctor.

DR. TAYLOR:

Thank you.

P.O. TONNA:

Thank you very much for waiting, and whatever.

(Applause)

P.O. TONNA:

That's a hearty, a hearty clap, I can tell, even at late night. Okay. Here we go. William Blakely. I can tell you one group has a lot more energy than the other.

LEG. FISHER:

They're the speedy group.

P.O. TONNA:

Here we go. William, how are you?

MR. BLAKELY:

Just fine, sir. Thank you.

P.O. TONNA:

Thank you.

MR. BLAKELY:

I want to thank the two Suffolk County Legislators for acting responsible, presenting a new resolution concerning the sale of Ephedra-containing products. This new resolution deals with the facts, the facts that there are products on the market that are made in FDA approved labs, so the dosaging is consistent; that there are local manufacturers who have done the research, so the public of this County can rely on good, safe consumer products that address the public concerns with the weight loss, asthmatic conditions and other medical conditions. It's acting with these facts that the new resolution is in the best interest of the public of Suffolk County. I thank you for your interest in serving the people of Suffolk County with this responsible legislation.

LEG. FISHER:

Thank you.

LEG. COOPER:

One question. Are you a distributor of Ephedra products?

MR. BLAKELY:

Yes, sir

LEG. COOPER:

Is it Biolean?

MR. BLAKELY:

Yes, sir

P.O. TONNA:

I feel like I'm at the Watergate hearings, just, you know, it's like I'm here. April Wagner.

MS. WAGNER:

Hi. Good evening.

P.O. TONNA:

Hey, April.

MR. WAGNER:

I'm April Wagner. I am -- I live in Medford at this point. I have a business that you heard from my husband earlier on Vets Highway in Bohemia. We have been involved with the company, Wellness International, that markets Biolean for the past ten years, have used Biolean for ten years, myself. Absolutely wonderful. I know a lot of people that have gotten great benefits from it.

I also have three boys. I am the President of the PTA of our local school, so I'm really interacting with a lot of kids and concerned, because my kids are anywhere from 7 to 15, so I'm very concerned with kids. I believe that this bill, the 2153, is certainly something that we want, that the products are not marketable to minors, but I also don't want to be without them myself, and I know that many other people feel that way, too.

So I appreciate, certainly, all the work that Legislator Alden and also Legislator Fields has done to this point; really took the time, I know, especially those two, took the time to look at all the reports and studies that we've put together at this point. So I want to thank you for hearing from me.

P.O. TONNA:

Let me guess, you have a question.

LEG. COOPER:

Two questions, Cameron.

LEG. ALDEN:

I'm going to be counting, though, Jon.

LEG. COOPER:

Two questions.

MS. WAGNER:

I kind of expected that.

P.O. TONNA:

Please.

LEG. COOPER:

I want to be completely -- two questions.

P.O. TONNA:

Go ahead.

LEG. COOPER:

April, your husband had expressed taking great umbrage at --

P.O. TONNA:

Mrs. Wagner to you.

LEG. COOPER:

I'm sorry, Mrs. -- you can call me Jon, Mrs. Wagner. That your husband had taken some umbrage at my sending one of my representatives to the rally that you held the day before the Legislative session. Are you aware that what preceded that was an E-mail that I got from your husband saying that -- not identifying himself, but saying that he represented an association of doctors in Suffolk County, and requested information about my bill.

MRS. WAGNER:

I don't -- you know, I don't take offense to the fact that you sent somebody to an open meeting.

LEG. COOPER:

Thank you.

MRS. WAGNER:

I take offense to the fact that you walked in with a ski cap and represented that she was a customer that used Ephedra, that's what I -- you know, that was just misrepresentation totally.

P.O. TONNA:

The mole.

LEG. COOPER:

Actually -- well, I won't get into that, but --

MRS. WAGNER:

Okay. Well -- and you have no control over what your people do, but --

LEG. COOPER:

Sure.

MRS. WAGNER:

-- I'd look at that seriously.

LEG. COOPER:

And, also, Mrs. Wagner, are you aware of any customer complaints, consumer complaints about any of your products?

MRS. WAGNER:

No. In fact, we have an excellent track record. You'll have the one E-mail from a disgruntled distributor.

LEG. COOPER:

No, no, I have a number of E-mails --

MRS. WAGNER:

Okay.

LEG. COOPER:

-- from disgruntled distributors.

P.O. TONNA:

Jon, just ask her a question.

LEG. ALDEN:

He did.

P.O. TONNA:

You did?

LEG. FISHER:

He did.

LEG. ALDEN:

That's just two he's got off.

P.O. TONNA:

You got you're two?

LEG. COOPER:

He got the two.

P.O. TONNA:

Jon, you're going to have --

LEG. COOPER:

Thank you. Thank you.

P.O. TONNA:

-- multi, multi hours to debate the bill.

LEG. FISHER:

Thank you.

MS. WAGNER:

Okay. Thank you.

P.O. TONNA:

Thank you, ma'am. Thank you. Thank you very much.

(Applause)

Okay. We got what? We have no time.

MS. BURKHARDT:

We have five minutes.

P.O. TONNA:

Five minutes, okay. Five minutes. Mark --

LEG. BISHOP:

Serotoff.

P.O. TONNA:

Serotoff.

LEG. HALEY:

How difficult is that?

P.O. TONNA:

Do you know how difficult it is? When you're dyslexic, let me explain something, it's tough. Serotoff. Okay. Marianne Zacharia.

LEG. FISHER:

No, Zacharia.

MS. ZACHARIA:

Okay.

P.O. TONNA:

Hi, how are you?

LEG. FISHER:

You were right, Paul.

MS. ZACHARIA:

Hello.

P.O. TONNA:

How are you doing, Marianne.

MS. ZACHARIA:

Here I am again. I wasn't -- I'm not going to read anything. I'm going to tell a story about -- which will illustrate to this Legislature why we need to pass the Bill 2020.

About two weeks ago, I received a phone call from a woman who works in a bar. She's a bartender, and she has worked there for the past 25 years. This particular bar happens to be in a bowling alley. She has suffered from the effects of second-hand smoke over the past 25 years, but stuck with her job, because she's a single mother, and she's raising two children, and she really needed that extra income.

About six months ago, when this Legislature passed the new law to ban smoking in bowling centers, altogether after 6 p.m., she experienced a problem, and that problem is, is that everybody who used to smoke in the concourse area of that bowling center at 6 o'clock are now coming into her bar and standing there and smoking, and the smoking has become so terrible that she can no longer stand it. And she is faced with making a decision at this point in time whether she can tolerate this anymore, stay in her job and suffer the effects of secondhand smoke, meaning that after she's worked an eight-hour shift, she goes home, she said she is sick for two days, she cannot stand it, or she can quit.

Now, she's been offered many other positions, because she's an excellent bartender and everybody knows her, but she's been there for 25 years. She likes her customers, the customers like her. She likes where she works. She doesn't want to have to leave, but she's really faced with this decision. And this illustrates -- and I said to her, "Well, let me ask you this. Some Legislators have said, and some other people have said, "Well, you know what, you can leave, get another job. Why don't you do that?" She said, "You know, I would feel so guilty if somebody had to come into this job and take it over, because they would then have to be exposed to all this secondhand smoke." That illustrates to me the need for this 2020 to be passed.

No worker should be forced to leave their job because of an avoidable occupational hazard, and I said that this morning. This is an avoidable occupational hazard. There's a very simple way of getting rid of the second-hand smoke and that is to ban it in all restaurants and bars.

You know all the health effects, wouldn't go over that again, you know the economics, you know that this is not going to hurt business. You have the power in your hands to save lives, and we certainly hope and urge that you will do so. Thank you.

LEG. FISHER:

Thank you, Marianne.

P.O. TONNA:

Thank you very much, Marianne.

LEG. FIELDS:

Thank you.

P.O. TONNA:

Okay. John {Rayerson}? Ryerson? We have three minutes, and that's the last speaker that we're going to get to.

MR. RYERSON:

It's Ryerson, Paul. Ladies and Gentlemen, I just have one or two more things to say. The constant reference is to smoke-filled bars. That young lady right before mentioned smoke-filled bars. There are those of us who when we complied with the compact with the Legislature and the people of Suffolk County who have done away with that. We have created both smoking and nonsmoking areas, and in this smoking area, it is separately ventilated. It is not a smoke-filled bar.

I've also been told that the smoke is the carcinogen, and when the smoke is gone, the carcinogen remains. That's logistically impossible. If the smoke is the carcinogen and the smoke is removed, the carcinogen is gone, because the smoke is the carcinogen.

Thirdly, OSHA is responsible for workplace safety, I think, and they have failed to weigh in on this, after looking at it thoroughly, I'm sure. I've also been told in response to that that it has something to do with the administration in Washington. I think that's kind of taking it a little bit into the partisan politics area. I think that OSHA is responsible under both Democratic and Republican's administrations to enforce the law and to look at the safety issues.

So, again, I would just ask that you consider Martin Haley's bill. I would be for that. And I am 100% against Brian Foley's bill. Thank you.

P.O. TONNA:

Thank you. Thank you. Okay. Time is up, and now we're going to go to the agenda.

LEG. CRECCA:

Can I just ask how many more people we have with cards?

P.O. TONNA:

Yeah, about 20.

LEG. BISHOP:

No, no, no. How many people are out there --

LEG. CRECCA:

I mean, with a show of hands.

P.O. TONNA:

Okay, let's --

LEG. CRECCA:

Motion to extend the public portion to 7:10.

LEG. LINDSAY:

Why don't just take all three people, line them up.

LEG. BISHOP:

Line them up.

P.O. TONNA:

You can't do it that way.

LEG. BISHOP:

Sure.

P.O. TONNA:

You've got to go through every single card and ask.

LEG. BISHOP:

No.

P.O. TONNA:

Yes, you do. Okay. Hold it one second. Listen, we're going to go to 7:30; is that what you're saying?

MS. BURKHARDT:

Seven-ten, he said.

P.O. TONNA:

Seven-ten? Second by myself. All in favor? Opposed? Fine. Okay, great. Now, Gregory Amato. He's not one of the people. Deborah Ficarola. All right. Howard Drake, III. If Howard Drake, II thinks he's coming up here, there's no way. Michael Capuano.

LEG. CARPENTER:

Capuano.

P.O. TONNA:

Capuano. Okay. Jacqueline Hudson. I got that one right. Jim Cantwell. Bill Leudemann. There you go, Bill. I didn't see you raise your hand, though, Bill, come on.

LEG. CRECCA:

He did, I saw him raise his hand.

P.O. TONNA:

All right. It's okay, then.

LEG. CRECCA:

I'm his witness.

P.O. TONNA:

How are you doing, Bill?

LEG. BINDER:

You're going to call a bald guy a liar.

P.O. TONNA:

There's no way I'm calling another bald guy, no way. I love your haircut, Bill.

MR. LEUEDEMAN:

Okay.

P.O. TONNA:

Less shine.

MR. LEUEMANN:

I have asked Legislator Foley several times if he could supply me with the source of statistics that is in his resolution, and to date, I have not heard about this source. Much can be said about the statistics regarding this issue. The antis have there's, we have ours. There's a large area in between. Most of our statistics come from OSHA and people that have questioned the ACS as to where they got their stats from.

Stanton Glantz, anti-tobacco activist and founder of Americans for Nonsmoker's Rights, seems to be where the ACS is getting their stats. His inflated mortality figures on secondhand smoke were rejected by the EPA as being too flimsy for inclusion in their own controversial report. The same Stanton Glantz that one of his own, Mike {Perchuck} of the Advocacy Institute, accused of ugly propagandistic distortion.

Those of us that are here today are all working people within the hospitality industry. Many are not here today, because they have to be at their place of business. We are not paid lobbyists that go from county to county, state to state, for the purpose of scaring the public with inflated statistics into believing that you cannot be near a smoker, or you will die.

A few of us that are here today would respectfully ask that you keep your word of a few years ago and let us continue the way we have agreed. The complaints are not overwhelming, and although it has caused some establishments many thousands of dollars, both the Legislature and our industry have agreed to today's rules, and this is the way it should remain.

We want to be able to continue to collect your sales tax, pay our business tax, pay our corporation tax, pay our alcohol, tobacco and firearms tax, pay our personal tax, and also pay for our health permits and pay for public assembly permits, etcetera. The economy isn't that good. We are just asking you to let us continue the way that you have agreed to let us do business a few short years ago, unless, of course, Legislator Haley's bill is passed to give us a choice as to how to operate our industry. Thank you.

D.P.O. POSTAL:

Thank you. The next speaker is Phil Goldstein. Is Phil here? Next, Sharon O'Connor. Jeff Eban. Jerry Dicecco. Kathy Ayers Lanzillotta. I know she's here.

MS. AYERS LANZILLOTTA:

I've been here since, 9 o'clock. Thank you. And I can assure you that the workload at my desk is not getting any smaller, as I've been here all day. Thank you. I appreciate your extending this public portion.

My name is Kathy Ayers Lanzillotta. I'm the President of the Quality Consortium, which represents 24 of our voluntary not-for-profit drug and alcohol prevention and treatment providers here in Suffolk County. I've testified before you on many occasions. I was here yesterday talking about the needs of our service delivery system.

What I want to say briefly today is that the County Executive's budget cut our agencies disproportionately. Some of the members of the Quality Consortium, such as Smithtown's Horizons, Islip's Access, and Southampton's Alternatives, have been cut 60, 70, up to 80% of the County funding, not 10%. Besides agencies losing County money, other Quality Consortium agencies, such as Catholic Charities, those are my programs, Pederson-Krag and Family Service League are losing matching State dollars to the tune of over \$100,000.

If the Omnibus Bill was intended to restore funding to the drug and alcohol contract agencies, you need to know that most of our Quality Consortium programs are not included in the bill. I've reviewed it and I see that only two of our members received any restoration of County funds, and one of our member agencies was actually cut, that's the HUGS Program.

We are being cut disproportionately, and we are not reflected in the Omnibus Bill to restore the greatly needed funding. If you look at the details of the proposed cuts to our system, you'll see that the County budget strategy is clearly counter-productive. Just ask probation and parole officers what are their alternatives to referral to the not-for-profit drug and alcohol treatment agencies. We are a crucial safety net. It's also important to note that these cuts are compounded by the need to reduce staff, which then creates additional revenue loss. We need your help. I don't believe it was intended to leave so many of the nonprofit drug and alcohol programs out of the Omnibus Bill or to cut us so severely.

And in closing, I'd like to ask if I could count on your support to try to help our service delivery system. This is the biggest cut I think our system has ever taken, and I really appreciate any support that you could give us. Thank you.

D.P.O. POSTAL:
Thank you, Kathy.

LEG. FOLEY:

Thank you.

D.P.O. POSTAL:

Next speaker is Jerry Cusack.

MR. CUSACK:

Good evening. Hello. I'll be short and sweet. You know why I'm up here. I'd just like to bring a few things up. The gentleman that spoke earlier from Nassau County, I owned a business in Nassau County, I would think Nassau County would not be a role model for Suffolk, or any county for that matter. That's a County that's in complete chaos. So when they pass bills and they use it for an example, I do not think this is one Suffolk County should follow.

Also, I'd just like to just touch on two areas very quickly, is that I brought up last time -- I'd just like every Legislator to answer one question to themselves. How many complaints are you getting about the present bill? We keep hearing that the waitresses and the bartenders are complaining, but, yet, we had less than three bartenders and waitress testify that this bill should be enforced. They say it's a fear factor.

Then the second part was, well, there's bar owners and restaurant owners. A Legislator mentioned, I believe Legislator Fields last time at the Health Committee, saying that they're in favor of the bill, but where are these restaurant and bar owners? And, you know what, I would support them 100% if they thought it could enhance their business, but it would be their choice with it.

So just in closing, I would hope cooler heads would prevail. We are Suffolk County, this is our business. We do not support, obviously, 2020. We feel that this is really an anti small business bill. And I think that a lot of print is getting misplayed on this as far as restaurant owners and bar owners are getting a bad rap for what we're standing for. Again, we stand here as small businessmen and women in Suffolk County. Please, recognize that. Thank you.

D.P.O. POSTAL:

Thank you. Next speaker is the Honorable Joseph Caputo. Is he here?

MS. BURKHARDT:

He's not here, he left a statement.

D.P.O. POSTAL:

Oh, okay.

LEG. HALEY:

He sent a letter.

D.P.O. POSTAL:

Thank you. Linda Baccoli. Dr. Moshe Dekel. Theresa Cussiack.

MS. CUSSIACK:

I've already said everything I had to say.

D.P.O. POSTAL:

Okay. Thank you. Jenny Kate Schlagel. Kristina Rudiger. George Fernandez. I have no more cards.

(Applause)

MS. BURKHARDT:

We're going to go to the levy.

LEG. CRECCA:

Oh, we'll take a dinner break, then.

MS. BURKHARDT:

No.

LEG. CRECCA:

No. It was a joke, guys.

P.O. TONNA:

Done with the cards?

MS. BURKHARDT:

Yeah.

LEG. CRECCA:

Can we call all --

P.O. TONNA:

Where's our Legal Counsel? All Legislators, please come to the horseshoe. We might take a break. Okay. Let's just -- Lance, maybe you can just give us some indication of -- where is our Legal Counsel? Can you get our attorney also, and maybe the lawyer. He's all three. Hey, Allan. Allan, just for -- you know, you are our supplemental Legal Counsel.

LEG. BINDER:

Really? You're going to trust me?

P.O. TONNA:

On these bills, all we have to do is make a motion to approve and second, right? I.R. -- am I right?

LEG. CRECCA:

Can we take 2100 out of order?

P.O. TONNA:

Why?

LEG. CRECCA:

What do you do, you go --

LEG. FISHER:

Go straight through it.

P.O. TONNA:

We got straight. Why would you want to take 2100 out of order? We're doing the levy right now.

LEG. CRECCA:

Oh, you're going to do the levy first? Okay, do the levy. I apologize, I didn't know you were doing the levy.

P.O. TONNA:

2119 (Extending the Time for the Annexation of the Warrant to the Tax Rolls). Make a motion, seconded by Legislator Postal. All in favor? Opposed.

LEG. ALDEN:

No. On the motion.

P.O. TONNA:

Yeah.

LEG. ALDEN:

I haven't gotten my list in front of me right now and I'm going to look to find it, but just explain what it is.

MR. BARTON:

2119 extends the time that we have to attach the warrant to the tax rolls. Statutorily, it should be done by December 1st. Every year we extend it. This year we have two meetings in December. I anticipate being able to do it at the December 5th meeting, but we went out to the 17th just in case.

P.O. TONNA:

Great. Okay. So there's a motion and a second. All in favor? Opposed?

MR. BARTON:

18.

P.O. TONNA:

Thank you. **2120 (To relevy certain unpaid taxes not included in tax lien sale).** Motion by myself, seconded -- same motion, same second. All in favor? Opposed?

MR. BARTON:

18.

P.O. TONNA:

2121 (Levying unpaid County Sewer Rents and Charges in Suffolk County Sewer District No. 3 - Southwest in the Towns of Babylon, Huntington and Islip). Same motion, same second. All in favor? Opposed?

MR. BARTON:

18.

P.O. TONNA:

2122 (Levying unpaid County Sewer Rents and Charges in the Town of Islip: Suffolk County Sewer District No. 13 (Wind Watch), Suffolk County Sewer District No. 14 (Parkland), Suffolk County Sewer District No. 15 (Nob Hill) and Suffolk County Sewer District No. 22 (Hauppauge Municipal)). Same motion, same second. All in favor? Opposed?

MR. BARTON:

18.

P.O. TONNA:

2123 (Levying unpaid County Sewer Rents and Charges in the Town of Brookhaven: Suffolk County Sewer District No. 1 (Port Jefferson), Suffolk County Sewer District No. 7 (Medford), Suffolk County Sewer District No. 10 (Stony Brook), Suffolk County Sewer District No. 11 (Selden), Suffolk County Sewer District No. 14 (Parkland), Suffolk County Sewer District No. 19 (Haven Hills), Suffolk County Sewer District No. 20 (William Floyd) and Suffolk County Sewer District No. 23 (Coventry Manor). Same motion, same second. All in favor? Opposed?

MR. BARTON:
18.

P.O. TONNA:

2124 (Levying unpaid County Sewer Rents and Charges in the Town of Smithtown: Suffolk County Sewer District No. 6 (Kings Park), Suffolk County Sewer District No. 13 (Wind Watch), Suffolk County Sewer District No. 15 (Nob Hill), Suffolk County Sewer District No. 18 (Hauppauge Industrial), Suffolk County Sewer District No. 22 (Hauppauge Municipal), and Suffolk County Sewer District No. 28 (Fairfield @ St. James). Same motion, same second, same vote.

MR. BARTON:
18.

P.O. TONNA:

2125 (Levying the return of the mandated fund balance for YR 2001 Actual and YR 2002 Estimated for the General Fund and Police District Fund to the taxpayers of the Towns of Suffolk County). Same motion, same second, same vote.

MR. BARTON:
18.

P.O. TONNA:

Okay, hold it. **2126 (Levying the return of the discretionary fund balance for YR 2001 Actual and YR 2002 Estimated for the General Fund, Police District Fund, and District Court District Fund to the taxpayers of the Town of Suffolk County). Same motion, same second, same vote.**

MR. BARTON:
18.

P.O. TONNA:

Just trying to, you know -- **2127 (Approving equalized real property valuations for the Towns in order to distribute the 2003 Mandated and Discretionary General Fund, Police Fund, Community College Fund and District Court Fund). Same motion, same second, same vote.**

MR. BARTON:
18.

P.O. TONNA:

2128 (Levyng the 2003 County Budget (MANDATED portion) to the Towns and charging the erroneous assessment charges to the Towns). Same motion --

LEG. BINDER:

No, no.

LEG. HALEY:

Nope.

P.O. TONNA:

Oh. There's a motion and a second. All in favor? Opposed? Opposed, Legislator Binder, Legislator Towle, Legislator Haley. Where's Legislator Guldi? No? All right. Stay --

LEG. ALDEN:

Opposed.

P.O. TONNA:

Oh, and Legislator Alden. Okay. 2129.

MR. BARTON:

14-4.

P.O. TONNA:

(2129-Levyng the 2003 County Budget (DISCRETIONARY portion) to the Towns). Same motion, same second, same vote.

MR. BARTON:

14, the same, four in opposition?

P.O. TONNA:

Right.

MR. BARTON:

Okay.

P.O. TONNA:

2130 (Levyng of Property Tax Assessments for County Sewer Districts: Towns of Brookhaven, Huntington, Smithtown for County Budget for Year 2003). Motion by myself, seconded by Legislator Postal. All in favor? Opposed?

MR. BARTON:

18.

P.O. TONNA:

2131 (Levy of Property Tax Assessments for the Southwest Sewer District No. 3, affirming, confirming and adopting the assessment roll for S.C.S.D. No. 3 and levying of Property Tax Assessment within the Towns of Babylon, Huntington, and Islip for County Budget for Year 2003). Same motion, same second, same vote.

MR. BARTON:

18.

P.O. TONNA:

The levy is done. Rolling, rolling, rolling.

LEG. GULDI:

Mr. Presiding Officer, a point of personal privilege. Counsel informs me I should do this at this point in the meeting. It will be -- I'll only need a minute. I promise to make it brief.

P.O. TONNA:

Haven't you used all your personal privileges up this year?

LEG. GULDI:

Not yet, but I probably will before the end -- before December 31st.

P.O. TONNA:

Okay. There you go.

LEG. GULDI:

At midnight. One of the -- one of the tabled resolutions is 17 --

LEG. TOWLE.

84.

LEG. GULDI:

1784, which is the law that's been proposed to amend the exceptions to the prohibition against contracts of County employees and officials contracting with the County. The reason that that bill needs to be moved now is because of a development at the Airport. My three aircraft this week were, without my consent or knowledge, moved from the location that they were on leased land, and have been removed from that land and placed on County land. They are no -- they are not flyable. They haven't been flyable for two years because of a lack of a place to service them. They are now no longer able to be tied down on leased land with the other tenants at the airports, and there's no available location for me to take them to without adding an additional conflict of interest by going into contract with a County tenant. As a result, the 1784, I'm going to -- Legislator Towle is going to ask to move it later today. I need to abstain from that discussion, but I need -- Counsel advises me I need to explain the facts and circumstances now, and that I will -- while I'll be available to answer questions, I will not be able to participate in the debate later. The -- and that's why I need to take this moment.

The application, the lease application which is a separate issue and a separate bill, will be addressed at a later meeting. Counsel advises me that it should not be addressed at the same time, it should be addressed separately. That lease has been amended and, frankly, has been amended to address every potential criticism and allegation that's been made, including a restriction of the use of the property for only my owned aircraft, not for hire, not for rent to anyone else, not for servicing anyone else's aircraft. And the lease application has been identified to specific square -- 40,000 square foot, complying with our minimum standards, at a specific site.

What I do want to touch on, however, is what the other 18 exceptions to the ethics, to the prohibition on County contracts, just to put this in context. What is also exempt are bank depositories, corporate employment, provided that there's no direct profit from it, up to 5% of a newspaper ownership. Sales of real estate to the County is exempt, condemnations are exempt, contracts with nonprofit corporations that an official or employee are a member or director of, sales of bonds, contracts that exist before election or County employment, 5% stock ownership in corporations. Hospitals and lab contracts are exempt, utility contracts are exempt, part-time compensation is exempted. Contracts of under a hundred dollar value are exempt, doctors are exempt, volunteers exempt, licensing board members are exempt, and EMS instructors are exempt. Finally, foster home contracts are exempt.

This exemption, which would apply to anyone at Suffolk Gabreski Airport, is stricter than all the others in three -- in many substantial ways. First, it requires disclosures, both to the Ethics Commission and to the County Attorney, and it requires monitoring, and duplicate monitoring.

Second, Federal Law prohibits discrimination at the facility among any aircraft user, including County employees and County electeds. It requires us to offer the services on the same terms and conditions. In addition, this -- this requirement is the only one that requires market value and the same treatment as others. I submit that it's far stricter and completely aboveboard.

The alternatives are to engage in some Machiavellian subterfuge where I have -- have to have a relationship with someone else who has a relationship with the County, which creates a complication by and of itself without the disclosure and market value requirements, or the -- since the aircraft are not airworthy, literally, they'd have to be dismantled in place and removed from the facility. I urge you to support the resolution when it's before you.

D.P.O. POSTAL:

Okay. Thank you. We're going to now go to the Consent Calendar.

LEG. TOWLE:

Motion to approve

D.P.O. POSTAL:

Motion to approve Legislator Towle, seconded by Legislator Crecca. All in favor? Opposed?
Consent Calendar is approved.

LEG. CRECCA:

Legislator Postal.

D.P.O. POSTAL:

Yes.

LEG. CRECCA:

If I may.

D.P.O. POSTAL:

Legislator Crecca.

LEG. CRECCA:

I would just make a motion to take 2100 out of order, and the reason -- and so that we can --

LEG. GULDI:

What page?

LEG. CARPENTER:

Second.

LEG. TOWLE:

Second.

D.P.O. POSTAL:

Can you tell us where that is?

LEG. TOWLE:

Page 10.

LEG. CRECCA:

Page 10.

LEG. TOWLE:

Insurance contract.

MR. BARTON:

Legislator Postal.

D.P.O. POSTAL:

Wait, wait, wait.

LEG. CRECCA:

Page 10.

MR. BARTON:

Can we just jump back to the Consent Calendar for a minute?

D.P.O. POSTAL:

Yes.

MR. BARTON:

I didn't get a chance to record a vote.

P.O. TONNA:

Motion and a second.

MR. BARTON:

Who was the motion and the second?

P.O. TONNA:

All in favor? Opposed?

D.P.O. POSTAL:

Wait.

LEG. TOWLE:

I made the motion.

D.P.O. POSTAL:

The motion was Legislator Towle, the second was Legislator Crecca.

P.O. TONNA:

For the Consent Calendar?

D.P.O. POSTAL:

Yes.

LEG. CRECCA:

Yes.

P.O. TONNA:

Okay. All in favor? Opposed?

LEG. CRECCA:

Right.

MR. BARTON:

18.

LEG. CRECCA:

There's a motion and a second now before -- to take 2100 out of order.

LEG. TOWLE:

And approve.

LEG. CRECCA:

And approve.

LEG. ALDEN:

Why?

LEG. CRECCA:

It's the Deputy Sheriffs' contract. They do have a union meeting tonight. It would be nice if the President and the Vice-President of that union could attend their union meeting.

P.O. TONNA:

Okay. Can I just say let's take it out of order first? There's a motion and a second. Motion by Legislator Crecca, seconded by Legislator Towle. All in favor? Opposed? Okay. It's in front of us right now.

LEG. TOWLE:

Motion to approve.

P.O. TONNA:

There's a motion to approve by Legislator Carpenter, seconded by Legislator Towle.

LEG. CARACCILO:

On the motion.

P.O. TONNA:

Okay. On the motion. I have a number of questions, also, Budget Review. Okay. Do you want to start, Legislator Caracciolo?

LEG. CARACCILO:

Yeah. Budget Review Office, can you tell us what the financial impact is, and is the money in the 2003 budget?

MR. REINHEIMER:

Yes. This is a two-year agreement for 2002-2003. There is a contingent salary appropriation in 2002 with 2.5 million dollars in it, and there's a contingent salary appropriation in the 2003 budget. This agreement over a two-year period is 2.9 million dollars.

LEG. CARACCILO:

Hold on, Lance. There's a disagreement with what?

LEG. LINDSAY:

This agreement.

MR. REINHEIMER:

No, this agreement.

LEG. CARACCILO:

Oh, this agreement. Gotcha.

P.O. TONNA:

Right.

LEG. CARACCILO:

Okay. I thought you said disagreement.

MR. REINHEIMER:

No. This, T-H-I-S, agreement is 2.9 million dollars over the two years, one mill in 2002 additional cost, and the cumulative cost over the two-year period is almost 3 million dollars.

LEG. CARACCILO:

What is the average wage increase?

MR. REINHEIMER:

Okay. This calls for a three-and-a-half percent increase in 2002, and a 3.25% % increase in 2003.

LEG. CARACCILO:

Okay. Thank you.

MR. REINHEIMER:

Plus steps.

P.O. TONNA:

Legal Counsel, I'm aware that, although that the Deputy Sheriffs' agreement came over with, I guess it's a codif --

LEG. BISHOP:

Codified.

P.O. TONNA:

It codified the health insurance memorandum of agreement, but I am -- now I have in front of me a letter from Jeffrey Tempera, the Director of the Office of Public -- of Labor Relations, that they have taken Item 10 out of the agreement. I just wanted to make sure that -- in other words, are they, first of all, legally allowed to do that?

MR. SABATINO:

The parties had the authority to amend the agreement and delete.
Paragraph 10.1.

P.O. TONNA:

Okay. Budget Review, just a quick question. We've heard, because of the concerns with The Segal Company, about the issue of a 9-9 vote to enhance the health insurance agreement. My concern is, is that -- just to get an understanding, does this memorandum of agreement basically take that off the table in its entirety? In other words, is Item 10 the whole thing, the whole shooting match of that -- of what we hear with The Segal Company with all of this other stuff? The enhancement of benefit. There was an enhancement of benefit awhile back, right?

MR. POLLERT:

Yes. That's going to be --

P.O. TONNA:

Oh, 18. Oh, right, right. Sorry.

MR. POLLERT:

That's going to be subject to review, depending upon what the findings of the audit are. The Audit Committee is going to be meeting tomorrow afternoon at 2 p.m. to discuss the work plan of the independent auditors.

P.O. TONNA:

Okay. Is this -- does this basically take out everything that was enhanced -- all I'm looking for is this. We have an agreement, all right. People are concerned about the extension, you know, and now voting on an issue with regard to the health insurance.

LEG. CRECCA:

May I answer that?

P.O. TONNA:

Yeah.

MR. POLLERT:

Item 10.1 was removed from the agreement, so it is no longer tied to the existing level of benefits.

P.O. TONNA:

Great. Legislator Crecca.

LEG. BISHOP:

Am I on?

LEG. CRECCA:

Actually, Fred pretty much hit the nail on the head, but I just wanted to add that I've spoken to --

P.O. TONNA:

Right. I think we're going to hear that.

LEG. CRECCA:

I've spoken to the appropriate personnel. As you know, we're still conducting the hearings regarding EM --

P.O. TONNA:

Yeah. Let me hear Legislator Crecca, and then Legislator Bishop has a question of Legal Counsel. Go ahead.

LEG. CRECCA:

Understand that we're still holding hearings ourselves as a Legislative body.

P.O. TONNA:

Right.

LEG. CRECCA:

There is currently an investigation by the District Attorney regarding that. But the fact of the matter is it does not affect what we're doing here today, because they have, A, removed that paragraph, and that will be subject to further negotiation later on. So we -- as far as the health benefits go, they'll continue now as is, but it is subject to renegotiation later, depending on what the results are of the audit and, eventually, what we decide policy-wise to do with the County's self-insured. So I'm saying, as Chairman of the Finance Committee, I've looked into this issue and I'm satisfied that that should not be a concern for anyone here on the Legislature on this vote today.

P.O. TONNA:

Legislator Bishop, Legal Counsel has the question of --

LEG. BISHOP:

I hope Legislator Crecca's interpretation is correct. I just want to get Legislative Counsel's interpretation.

P.O. TONNA:

Who's all our attorney.

LEG. BISHOP:

Who's also an attorney, and who certainly has studied the issue.

P.O. TONNA:

I think he's a lawyer, too.

MR. SABATINO:

The issue that came up in the committee the other day was that there was a sleeper clause, this Section 10.1. The concern about the clause was that that clause would have had you ratify and approve after the fact the enhanced benefit agreement from May of 2001 that you should have

been voting on before the fact. Because the parties have agreed to delete it, you will not be approving that sleeper clause tonight. That will leave open the issue as to what's going to happen with regard to the underlying agreement, which --

LEG. BISHOP:

Very good. That's the answer I was looking for.

P.O. TONNA:

Yeah, we just want the flexibility.

LEG. BISHOP:

We're not voting to ratify the memorandum of agreement of May 2000.

P.O. TONNA:

Right.

LEG. BISHOP:

Very good.

P.O. TONNA:

Okay, great. There's a motion and a second. All right. Just one last question. The way that the Deputy Sheriffs work, you get hired and you go through a -- I guess a step program. Would there basically -- right? Just can you tell us the ladder?

MS. GAZES:

There's a total of five step in their salary plan. They're hired at the beginning step and progress usually within three to four to Step 5. They are -- if they are promoted to a Deputy Sheriff II during that time, it's automatically at top step, although it's very rare for them to be still in the step system and not at top step when they're promoted, they're usually there many years before they move up. So once they're promoted to a Deputy Sheriff II, they're at top step, otherwise they work their way through the system within three to four years to be top step.

P.O. TONNA:

So a Deputy Sheriff gets a job, he starts at entry level. The next year he gets a step increase automatically?

MS. GAZES:

That's correct.

P.O. TONNA:

Plus whatever the increase is here?

MS. GAZES:

That's correct.

P.O. TONNA:

So we're giving basically a 3.25% increase, plus whatever the step is, so --

MS. GAZES:

That's correct.

P.O. TONNA:

-- each year, they will be getting six, seven, eight, ten, whatever --

LEG. CRECCA:

All we do is increase -- no, no, no, no. They just get the --

P.O. TONNA:

That's what I want to find out.

LEG. CRECCA:

They increase the steps themselves by 3.25%, that's my understanding.

P.O. TONNA:

No. It's a double-banger.

MR. REINHEIMER:

There's approximately 225 Deputy Sheriffs and about 60 of them are in steps. Everyone else, the remainder 80% of them are at top step.

P.O. TONNA:

Eighty percent are at top step.

MR. REINHEIMER:

At least 80%, so they do not get any steps.

P.O. TONNA:

So they only get the 3.25.

MR. REINHEIMER:

They get the 3.5 --

P.O. TONNA:

Or whatever else.

LEG. LINDSAY:

And the 3 --

P.O. TONNA:

The other guys moving through their steps basically have 7, 8% when you add each year for the five years, and then they're up at top step and then they move from there.

MR. REINHEIMER:

That's correct.

P.O. TONNA:

Okay, great. Any other questions? Okay. Roll call.

(Roll Called by Mr. Barton, Clerk)

LEG. CARPENTER:

Yes.

LEG. TOWLE:

Yes.

LEG. CARACCILO:

Yes.

LEG. GULDI:

Yes.

LEG. CARACAPPA:

Yes.

LEG. FISHER:

Yes.

LEG. HALEY:

Yes.

LEG. FOLEY:

Yes.

LEG. LINDSAY:

Yes.

LEG. FIELDS:

Yes.

LEG. ALDEN:

Yes.

LEG. CRECCA:

Yes.

LEG. NOWICK:

Yes.

LEG. BISHOP:

Yes.

LEG. BINDER:

Yes.

LEG. COOPER:

Yes.

D.P.O. POSTAL:

Yes.

P.O. TONNA:

Yep.

MR. BARTON:

18.

P.O. TONNA:

Okay. There you go. Congratulations, guys and ladies. All right? Congratulations. Thank you. Back to the agenda. We did the Consent Calendar, now we're moving --

LEG. BISHOP:

Now we have no more security, they're out celebrating? They're gone.

P.O. TONNA:

That's it, okay.

LEG. TOWLE:

No more security, they're gone.

P.O. TONNA:

Tabled Resolutions, **Number 1000 (Imposing reverter clause on non-Brookhaven Town PILOT payments pending appeal of Gowan decision)**. Legislator Haley.

LEG. GULDI:

For the record, was that the first time we voted on the contract with union members with guns in the auditorium?

LEG. BISHOP:

With guns, watching us.

P.O. TONNA:

Legislator Haley, you're going to withdraw this bill? There's no more money, and you already won the lawsuit.

LEG. HALEY:

Yeah, but I thought there was an appeal.

LEG. ALDEN:

Motion to table.

P.O. TONNA:

All right. Seconded by myself. All in favor? Opposed?

[Opposed Said in Unison by Legislators]

There you go, you know who they are. Deja vu all over again.

Okay. **1050 (Authorizing retrofitting of traffic lights and LED fixtures).** Motion, Legislator Cooper, to table, right?

LEG. COOPER:

Motion to table.

P.O. TONNA:

Great. Seconded by myself. All in favor? Opposed? Tabled. **1275 (To implement Town of Babylon Affordable Housing Plan).** Motion? Motion, Legislator Postal --

MR. BARTON:

18.

P.O. TONNA:

-- to table, seconded by myself. All in favor? Opposed? Tabled.

LEG. BISHOP:

What is going on with that?

MR. BARTON:

18.

P.O. TONNA:

1395 (Initiating procedure for environmental impact statement (EIS) for 2003 Vector Control Plan of Work). Motion to table, Legislator Fields?

LEG. FIELDS:

Withdrawn.

P.O. TONNA:

Oh, withdrawn. There you go. Okay. **1421 (Authorizing the County Executive to establish a Unified Child Placement Committee).** Legislator Postal, motion to table, seconded by myself. All in favor? Opposed? Tabled.

MR. BARTON:

18.

P.O. TONNA:

1585 (Authorizing waiver of interest and penalties for property tax for Joseph Bryan and Marie Bryan (SCTM No. 0200-979.70-02.00-025.000)). Motion by Legislator Foley,

table?

LEG. BISHOP:

Don't we have to table in light of the lawsuits and all of that?

P.O. TONNA:

Seconded my buy myself. All in favor? Opposed? Tabled.

MR. BARTON:

18.

P.O. TONNA:

1734 (Designating contract agency for education component of Universal Child Sexual Abuse Reporting policy for Suffolk County). Motion by Legislator Caracappa.

LEG. CARACAPPA:

Table.

P.O. TONNA:

Seconded by myself. All in favor? Opposed? Tabled.

MR. BARTON:

18.

P.O. TONNA:

1784 (Adopting Local Law No - 2002, A Local Law to include Gabreski Airport facility use as Ethics Law Exception).

LEG. TOWLE:

This one, motion to approve.

P.O. TONNA:

Motion to approve by Legislator Guldi.

LEG. HALEY:

Second.

P.O. TONNA:

Seconded by Legislator Haley.

LEG. HALEY:

Towle.

P.O. TONNA:

Okay, Towle. I'm sorry. Yes, Legislator Towle and Haley. Could you just -- what does this do?

LEG. BINDER:

He just explained the whole thing.

P.O. TONNA:

I just want to ask Legal Counsel.

LEG. BISHOP:

He explained why he needed to move it, he didn't explain --

P.O. TONNA:

He didn't explain the bill, he explained why he wanted it done.

LEG. CRECCA:

Ask counsel to explain it briefly.

LEG. TOWLE:

Paul, go ahead.

MR. SABATINO:

This will change the existing Ethics Law to allow for leases, subleases, permits, agreements, or licenses with any elected County official, or any County employee who wishes to use or occupy any facility at the Gabreski Airport, but that will be subject to a series of conditions. The essence of the conditions is that, first of all, the individual employee has to file a written disclosure regarding the transaction in the form of a sworn statement to the Ethics Commission. The Ethics Commission then maintains the record of that. The second thing is that there's got to be fair market value paid for the use of the facility or the services that are received.

The next component is that there can be no preferential pricing or discount or any form of financial benefit given to the person in their capacity as a licensee or a tenant.

And then the airport manager is obligated under the statute to notify both the Ethics Commission and the Suffolk County Department of Law as soon as he or she is aware of any default under the provisions of that license or use agreement or lease, if it occurs while the individual tenant or permittee is still a County employee or a County elected official. So, by virtue of that exception to the Ethics Law, it would permit a transaction based on those four caveats being entered into by an elected official or a County employee.

LEG. ALDEN:

On the motion.

P.O. TONNA:

Just wait.

LEG. CARACCILO:

Mr. Chairman.

P.O. TONNA:

Just on the -- yeah, I have a motion -- I mean, a question, and then Legislator Alden and Legislator Caracciolo.

One question, and I know it's come up, the whole idea, because Legislator Guldi raised it with other people. Is the employee allowed to lease it to others, subcontract it out, or whatever else? I just want to make sure.

LEG. TOWLE:

He answered that already. No.

P.O. TONNA:

Well, I want to hear it.

MR. SABATINO:

Well, that's not a function of this statute, that's a function of the County agreements, which are that there can be no assignment of a right or an interest without the consent of the County. The consent of the County is the County of Suffolk, the corporate institution, which means a resolution, you know, with or without the County Executive, depending on whether there's approval or vetoes. So it's not a function of this particular Ethics Law, because this does not deal with details of how you do leases, or licenses, or permits, but you can't have a transfer of those rights without the consent of the County.

P.O. TONNA:

Okay. All right. Legislator Alden?

LEG. ALDEN:

I think it was mentioned before, this is split off now? This doesn't deal with the lease, this just would deal with the exemption to the Ethics Law?

LEG. TOWLE:

Yes.

LEG. ALDEN:

All right. George, the second part of this, do you sit on any boards or anything like that in regard to the Gabreski Airport?

LEG. GULDI:

Yes. I sit on the Airport Lease Screening Committee. In the event that there were ever any conflict, as I have in the past, for example, when Bob Stevens' lease was approved, I've been a customer of his, I abstained. When Long Island Jet Center applied to take over Hampton Air's lease, I'd been counsel to Hampton Air, and I'd done a house closing for them and I've known them for a long time, so I abstained on all those applications. And in the event that there was any conflicting or competing or different application related to this, I would abstain on that, and the other members of the Committee would. In the event of an abstention by any member of that committee, all those matters would come to this Legislative body pursuant to our rules.

LEG. ALDEN:

You might have answered my next question, which is you intend on remaining in that position on that Board?

LEG. TOWLE:

He's there by law.

LEG. GULDI:

Yeah, actually, the Legislator from the district is on that Commission by operation of law.

LEG. ALDEN:

Unless he declines to serve on that.

LEG. GULDI:

I think that the -- there isn't a provision for a declination, as I understand it. There's a designee provision, but that wouldn't be my intention to use that. It would be my intention to abstain on any particular item that would conflict with this. There are many, many other aspects of the airport, including 60 acres of nonaviation industrial development and all sorts -- that I've been working for years that I intend to continue to take an active hand on, and, frankly, that's the real -- that's the real area of development at Gabreski that's important, that together with the infrastructure improvements and repairs.

LEG. ALDEN:

One thing I have a problem with, and you and I have faced it probably a couple of times in our career, as lawyers, we're held to a standard where even the appearance of impropriety has to be avoided. And, unfortunately, I'm having a little bit of a problem visualizing how you wouldn't be perceived as having more influence than John Q. Public coming in there and it wouldn't be viewed that you were being treated differently, even though it might not be the case. The public perception would be that there's an impropriety taking place here and that's -- I have a little bit of a problem with that. And the Ethics Law, you know, was crafted to protect basically the public. And if we're going to go and step in now and change that type of law, and I realize, you know, what your situation is and everything, you've made that clear and you disclosed everything, I still have a problem, though, visualizing how you're not going to be able to step away from that and avoid the appearance of impropriety.

LEG. GULDI:

Let me answer that, if I can, and that is that the -- having an aircraft at the field and being a pilot, compelling you to have a relationship with other aircraft tenants by virtue of that fact I felt is a far worse appearance and a much more problematic situation. This would provide for full public disclosure, market value, comparison of the leases, equal treatment, and everything is disclosed, providing the kind of transparency that is the goal and objective of Ethics Law. Anything else fails to do that.

LEG. ALDEN:

No. I realize that, but what we've done, or what we're about to do, and I'm taking this very seriously looking at it, and I think that we have to exercise that oversight here, but we're making an exception to an Ethics Law that immediately is going to raise the perception in the public that what's good for everybody else is not good for ourselves, because now we're changing something strictly for somebody that is a Legislator, and that's the reason why we're actually changing something, because a Legislator wants to take advantage of a lease or leasing property at Gabreski.

LEG. GULDI:

Yeah. The point I want to make is that the prohibition is a prohibition against any contract of any nature and description, and there are 18 other exceptions, which are much broader than this. The fact that the -- I mean, including foster homes, for example. Right now, a County Legislator is prohibited from being a foster parent, but for the exception. The fact of the matter is that exception was added because someone wanted to be or was a foster parent. The fact that there's a County Legislator who's a pilot who owns aircraft is what causes the compliance with Federal Law that says all pilots should be treated equally. And to have a prohibition, while everybody else is treated one way, violates that equal treatment requirement of Federal Law.

P.O. TONNA:

Just on the -- and I think somebody else, Legislator Crecca wanted to be recognized. And I've told this to Legislator Guldi, I'm going to support this resolution. One of the reasons why I'm supporting the resolution is because of the nature of aviation in and of itself. People use the issue of a boat slip. You know, somebody who you can use -- you know, why are you using a boat slip that might be like at Timber Point that's run by the County. I don't know if that's actually run by the County.

LEG. ALDEN:

Boat's out of there, by the way, now.

P.O. TONNA:

Right. But the reason is, is because airports, it's not like that there are airports all over the place where you can do that with that are not run by a municipality. The only thing, though, is in deference to what Legislator Alden said, I am going to put in a bill, and Legislator Guldi knows this, if this passes today, I am going to be putting in a bill that reduces the membership, the East End, the Suffolk County Legislator representing the Legislative district in which the County

airport is located. I'm going to put -- I am going to submit that bill. Legislator Guldi knew about that, I think, ahead of time, that basically says that he will not be, or whoever that person is will be off the Lease Committee, the Airport Lease Committee. But I think in fairness, because of the nature of aviation, he should have a right, as long as there's transparency and everything else.

LEG. BISHOP:

Why are you submitting that bill?

P.O. TONNA:

I'm submitting that bill, because just if there is somebody who has a lease, I don't -- I think it's not a good precedent to have that person sit on the Lease Committee, even if they abstain on -- you know, on the leases that affect him. I just don't think that's a good precedent.

LEG. BISHOP:

So, rather than do it by law, which, essentially, you're disenfranchising, in the future --

P.O. TONNA:

Right.

LEG. BISHOP:

-- the South Fork from -- representative from participating on the Screening Committee, shouldn't you just request that Legislator Guldi do that?

LEG. TOWLE:

Let's debate that when the bill's filed.

P.O. TONNA:

Yeah, I think that's a different issue, but I just --

LEG. BISHOP:

Well, no. I think it's significant.

LEG. TOWLE:

If you file the bill, let's debate it then.

P.O. TONNA:

Yeah.

LEG. TOWLE:

It's a different issue altogether.

P.O. TONNA:

That would be fine. Okay.

LEG. CARACCILOLO:

Mr. Chairman.

LEG. BISHOP:

Significant to this bill. If he's not going to --

P.O. TONNA:

Yes Legislator Caracciolo, and then Crecca.

LEG. BISHOP:

If he's not -- has no inclination to do that. All right. I'll speak later.

LEG. CARACCILOLO:

The question I have relates to the individuals who came down before the Legislature during the period of time that these bills were first introduced and objected to what they felt was preferential treatment on behalf of a member of the Legislature in utilizing space, which they indicated was in short supply. The Counsel to the Legislature went through the provisions of this bill and, unless I missed it, there was no preferential treatment with respect to fees, but I didn't hear anything with regard to any preferential treatment with regard to space. Now, that may be in the lease agreement, and if so, I want to know, mechanically, how is lease space at the facility allocated?

MR. SABATINO:

Lease space is allocated on the basis of the Lease Screening Committee voting on requests that are made by individuals or entities to occupy and use space that they request, so that's -- and the Legislature only gets to see those under that 1997 statute, if there's not a unanimous vote of the Lease Screening Committee. So, basically, what's happened is there's --

LEG. CARACCILOLO:

If you have -- pardon me, Counsel. If you have an abstention, because, in this case, Legislator Guldi would have to recuse himself.

MR. SABATINO:

Well, that means -- yeah. That means is that automatically now you'll be seeing --

LEG. CARACCILOLO:

That would have to come to the Legislature, correct.

MR. SABATINO:

Yeah. You will automatically begin to see all of the requests to use space at the facility, because you can't have a unanimous vote anymore of the entire membership.

LEG. CARACCILO:

I just want to make sure that those people who felt they were disenfranchised by an elected official who may be given preferential treatment, and that's an assumption on their part, that there is a check and a balance here to make sure that this Legislative body would have the opportunity to not only review that, but actually vote on that, because I would not support either of these resolutions at the risk of other aircraft owners being denied what they feel are their Constitutional rights to lease space at Gabreski Airport.

MR. SABATINO:

But I want to just -- I want to just, you know, caution my comment. That presupposes that every -- that ever request to use or occupy space at the facility is not going to have a unanimous vote. Now, Legislator Guldi has stated on the record that he's going to recuse himself on some, I'm not certain he's saying all. So that means that the ones that he's not recusing himself on, unless somebody else is voting no or is abstaining, you're not going to see those other proposals. Okay?

I don't want to leave you with the impression that now, all of a sudden, if there's a hundred requests that come before Lease Screening, you're going to see all one hundred. I can't say with certitude that's the case.

LEG. CARACCILO:

No, no, no, no. I want to make certain that his lease agreement comes before the Legislature.

MR. SABATINO:

Okay. If that's the question, the answer is yes.

LEG. CARACCILO:

Okay. But I don't want to see his lease agreement considered and approved by either the Airport Lease Screening Committee or this Legislature without knowing that other people were treated fairly and equitably.

LEG. TOWLE:

Legislator Caracciolo, would you suffer an interruption?

LEG. CARACCILO:

Yes.

LEG. TOWLE:

As the sponsor of the bill, I went out to the Airport in lieu or in light of the comments that were made by some members of the public to review the records to see if there were any, and I'll call them residential, okay, residential as in personal use, a listing of people that have been waiting, and there is no list. There is a list for commercial use, but Legislator Guldi is not doing this for commercial use, he's doing this for personal use, and there is no waiting list for that at this point.

LEG. CARACCILOLO:

I appreciate that, Legislator Towle, but before I would consider a lease agreement, I would like to see that in writing --

LEG. TOWLE:

Well, of course.

LEG. CARACCILOLO:

-- from the Airport Manager and the Airport Lease Screening Committee.

LEG. TOWLE:

But that's not this resolution, Legislator Caracciolo.

LEG. CARACCILOLO:

I understand. I understand. I understand, and I appreciate -- I appreciate that. But I just want to make sure.

Now, the second matter that I think needs to be raised, because there's been a proposal to expand Economic Development Zone credits from the Town of Riverhead to other entities in the County, specifically in Flanders in the Town of Southampton at the County Airport, Gabreski -- I'll wait for Counsel.

MR. SABATINO:

I'm sorry.

LEG. CARACCILOLO:

The question I have, Paul, is, if there was a transfer of EDZ to Gabreski, I would be -- well, you say it's not in this area. I don't know anything about where that proposal is in -- I know it's here and it ain't going anywhere any time soon, but that said, at some --

LEG. TOWLE:

Predicting the future, are we?

LEG. CARACCIOLO:

At some point, if they are transferred, my concern would be that, again, we now have what starts out as a residential use of aircraft storage facilities and suddenly becomes a commercial use, and we have -- we have taxpayers who are looking at a situation, saying, "Very clever." Not only did an elected official get space that perhaps they may feel their expense or detriment, but now there are tax incentives and other benefits that accrue with that. So I just want it all on the record, full disclosure, so everybody knows what the intentions are here, because I won't support that either.

LEG. TOWLE:

Legislator Caracciolo, if I could again, I guess. Based on having gone out there, if, Legislator Caracciolo, only yourself, or Legislator Guldi and myself, whoever it was, was approved for personal use and then wanted to move that site into commercial use, you'd have to go before the Lease Screening Committee again. There'd be a completely new lease, at which point one of us would have to abstain if we were, obviously, on that Committee, in this instance he is by statutory law, and, therefore, it would be bounced to the Legislature. I mean, that is the mechanism of checks and balances.

LEG. CARACCIOLO:

Counsel, you agree?

MR. SABATINO:

Yes. If it's going to be a new -- a new lease for a new purpose for a new use, it would go through the Lease Screening review process, and, again, you would have to be voted on by the Lease Screening Committee. If there was not a unanimous vote, it would kick up to the Legislature.

LEG. CARACCIOLO:

Again, I just want to make this record complete, so that a year from now, two years from now, if those events take place, people's recollections will be refreshed and understand what you can and what you can't do. Thank you.

LEG. CRECCA:

Call the vote.

P.O. TONNA:

Okay. Roll call.

LEG. CARPENTER:

No, I have a question.

P.O. TONNA:

Oh, I'm sorry. Legislator Carpenter, I apologize.

LEG. CARPENTER:

Thank you. I want to get some information. Counsel, on the leases and the review, it's my recollection that the leases came back to the -- or came to the Legislature for approval, and I think I just heard you say that that changed in '97?

MR. SABATINO:

Yes. It was a late 1996 or early 1997 law, but I recall it being in 1997. The law was changed with the creation of a Lease Screening -- with the creation of a Lease Screening Committee that was given the authority to vote on the leases. And as long as the votes were unanimous of the entire membership, not just the people present, the entire membership, then the Legislature would not be voting on those leases. Prior to that time, you know, we probably saw, I don't know, eight, ten, maybe twelve leases per year and you would vote on each one individually.

LEG. CARPENTER:

No, I do remember them. Who sits on the Lease Screening Committee besides the Legislator from the District?

MR. SABATINO:

Well, the current statutory framework is County Executive or a designee. I don't recall who the County Executive designee is, but the Presiding Officer has a designee. I know he's got one of his Aides who sits on the committee. The Chairman of the Health Committee or a designee, the Director of Real Estate, that's the actual Director of Real Estate Division, the Commissioner of Economic Development or his or her designee, the Chairman of the -- the Chairman of the Energy and Environment Committee or a designee, one representative of the public at large, which is selected by the Presiding Officer. And the eighth member is the Legislator from the district in which the airport is located. Those are the eight members.

LEG. CARPENTER:

It's my guess that all of those Legislative appointments are being filled or served by designees, so the level of scrutiny, perhaps, is not as keen as it should be. And I think that we should revisit, and I'd ask the Presiding Officer if he's got a bill now that is addressing this whole situation, that we look at bringing those leases back to the Legislature. I think, with everything that's gone on with the whole issue of the Division of Real Estate and we want -- you know, I keep hearing transparency, and I -- and I think, too, the companies that are leasing space out there, it's almost like an opportunity for them to get known, because prior to the leases, whoever heard of the Holy Moses Cheesecake Company? But it seems like, you know, it was something that we first heard about, and I do believe that it should come back. And I'd ask you, Mr. Presiding Officer, if that's going to be part of your --

P.O. TONNA:

I could just repeal the whole section and just say all leases have to come back to the Legislature.

LEG. CARPENTER:

I mean, I don't have a problem with the Lease Screening Committee reviewing them and then having a recommendation and coming -- but it should really come to the Legislature. I think we're abdicating our responsibility and not signing off on those leases.

P.O. TONNA:

Okay. I'll work with you, Legislator Carpenter, on that. Okay. All right. Let's have a roll call.

(Roll Called by Mr. Barton, Clerk)

LEG. TOWLE:

Yes.

LEG. HALEY:

Yes.

LEG. CARACCILO:

Pass.

LEG. GULDI:

Abstain.

LEG. CARACAPPA:

Yes.

LEG. FISHER:

Yes.

LEG. FOLEY:

Yes.

LEG. LINDSAY:

Pass. Pass.

LEG. FIELDS:

Yes.

LEG. ALDEN:

Abstain.

LEG. CARPENTER:

Abstain.

LEG. CRECCA:

Yes.

LEG. NOWICK:

Yes.

LEG. BISHOP:

Pass.

LEG. BINDER:

Yes.

LEG. COOPER:

Yes.

D.P.O. POSTAL:

Yes.

P.O. TONNA:

Yeah.

LEG. CARACCILO:

Abstain.

LEG. LINDSAY:

Abstain.

LEG. BISHOP:

Yes.

MR. BARTON:

13, 5 abstentions.

P.O. TONNA:

Okay. Let's --

LEG. TOWLE:

Motion to table

P.O. TONNA:

Motion to table what?

LEG. TOWLE:

1786.

LEG. CRECCA:

Well, he didn't even call it.

LEG. GULDI:

The lease, it's not ripe until the next session.

P.O. TONNA:

Okay.

LEG. CRECCA:

Second.

LEG. TOWLE:

Trying to move this along.

P.O. TONNA:

Oh, okay. **1786 (Authorizing the lease of vacant land located at Francis S. Gabreski Airport, Westhampton, New York for aircraft hangar purposes).** Motion to table, seconded by myself. All in favor? Opposed? Tabled.

MR. BARTON:

18.

P.O. TONNA:

1799 (Designating certain contract agencies for education component of Universal Child Sexual Abuse Reporting Policy for Suffolk County). Motion by Legislator Nowick to table? What do you want to do?

LEG. NOWICK:

No. Motion, motion.

P.O. TONNA:

Motion to approve by Legislator Nowick.

LEG. COOPER:

Second.

P.O. TONNA:

Seconded by Legislator Cooper. All in favor? Opposed?

MR. BARTON:

18.

P.O. TONNA:

Okay. **1903 (Adopting Local Law No - 2002, A Local Law amending the designation of an Empire Zone).** Motion by --

D.P.O. POSTAL:

I'll make a motion to approve.

LEG. CARPENTER:

Second.

LEG. CARACCIOLO:

No. Motion to table.

P.O. TONNA:

Okay. Motion -- okay. There's a motion to approve by Legislator Postal, seconded by Legislator Guldi. There's a motion to table by Legislator Caracciolo, seconded by myself.

LEG. CARACCIOLO:

Yeah. I'm still waiting for the Town of Riverhead. I've written to them twice about this issue.

LEG. TOWLE:

They were here today. Why didn't you ask them?

LEG. CARPENTER:

Now they're going to answer you.

P.O. TONNA:

I don't know about that.

LEG. GULDI:

Actually --

LEG. BINDER:

They're moving slowly with the paperwork, Michael.

LEG. GULDI:

On the motion.

P.O. TONNA:

On the motion, Legislator Guldi.

LEG. GULDI:

Do we have a -- Legislator Postal. If I can distract Legislator Postal for a minute.

LEG. CRECCA:

Legislator Postal.

LEG. GULDI:

I'm sorry.

LEG. CRECCA:

Legislator Postal.

LEG. GULDI:

I hate to interrupt your conversation, but I need to ask you a question. Legislator Caracciolo says he's still waiting for the Town with respect to this issue, but you said something to me about Town and the necessity of Town participation. This is really our zone, the County zone, is it not?

D.P.O. POSTAL:

That's right.

LEG. GULDI:

So, realistically, the problem is that there are people waiting to avail themselves of this in the receiving areas that are being held up by this.

LEG. CARACCIOLO:

The difficulty I have with that analysis is that the credits are part of property that was donated by the Federal Government to the Town of Riverhead. The County acts as an applicant to the State on behalf of local governments. It's not exclusive to any one town, I think that's a fair acknowledgment, but, at the same time, I think the Town Board should weigh in, and right now, I haven't heard from the Town Board. So, if we can table it one cycle and try to put some wind behind the sales of those in Town Hall to make a decision, I would appreciate it.

P.O. TONNA:

Okay.

LEG. CARACCIOLO:

So I'd make a motion to table it one cycle.

D.P.O. POSTAL:

Mr. Chairman.

P.O. TONNA:

There's a motion and a second to table. Legislator Postal.

D.P.O. POSTAL:

You know, Mike, I certainly understand what you're asking, but my information, and it's reliable information, is that the County makes the decision with regard to any excess acreage.

You know that we've been looking for the designation for the community of Wyandanch, which is probably, if not the most depressed area in the whole County, it's tied with Riverside, or something. You know, I know it's tied with something out in this area. It's really important. And I understand about waiting one meeting, but, truthfully --

LEG. TOWLE:

There's three, though.

D.P.O. POSTAL:

We're at the end of the year. I'm very uneasy. You never know. You've been here long enough to know that you never know what could happen between today and tomorrow in this Legislature. And then we go into January and all of the reorganization issues. And so, you know, if you have -- I just can't support a tabling motion. I couldn't do that. I would really feel I was not representing the community of Wyandanch properly.

LEG. CARACCILOLO:

I could appreciate that, but, with all due respect, we're looking at the week of December 5th is our next meeting. It's only a couple of weeks. It's not an eternity, it's certainly before the end of the year.

P.O. TONNA:

Legislator Haley.

LEG. HALEY:

The question I have, and, you know, I'm a firm believer in deferring to the Legislator and when it affects their district, Mike, if -- Legislator Caracciolo, if per chance you don't get the response from the Town within the next couple --

LEG. CARACCILOLO:

Move it.

LEG. HALEY:

You'll move it? Then --

LEG. CARACCILO:

I didn't say I'll move it, I said then it should be moved.

LEG. HALEY:

I'll support the table.

P.O. TONNA:

Okay.

LEG. GULDI:

Mike, didn't you say that last meeting?

P.O. TONNA:

Roll call on the tabling.

LEG. FISHER:

He did say that last meeting.

P.O. TONNA:

There is a motion by Legislator Caracciolo, seconded by myself. And now we know that Marty is going to support the tabling. Go ahead.

(Roll Called by Mr. Barton, Clerk)

LEG. CARACCILO:

Yes.

P.O. TONNA:

Yes, to table.

LEG. GULDI:

No.

LEG. TOWLE:

No.

LEG. CARACAPPA:

Yes, for one cycle.

LEG. FISHER:

No.

LEG. HALEY:

Yes.

LEG. FOLEY:

No.

LEG. LINDSAY:

No.

LEG. FIELDS:

No.

LEG. ALDEN:

Yes.

LEG. CARPENTER:

Yes.

LEG. CRECCA:

Yes, to table.

LEG. NOWICK:

Yes.

LEG. BISHOP:

No.

LEG. BINDER:

Pass.

LEG. COOPER:

No.

D.P.O. POSTAL:

No.

LEG. BINDER:

Yes.

MR. BARTON:

9-9.

P.O. TONNA:

Okay. So there's a motion to approve?

D.P.O. POSTAL:

Motion to approve.

P.O. TONNA:

Motion to approve by Legislator Postal.

LEG. CRECCA:

Motion.

P.O. TONNA:

Seconded by Legislator --

LEG. CRECCA:

Motion to table subject to call.

LEG. CARACCILOLO:

Second.

P.O. TONNA:

Wait. Okay, seconded -- wait. To table subject to call?

LEG. CARACCILOLO:

Yep.

P.O. TONNA:

I'm not going to do that.

LEG. CARACCILOLO:

All right. So then vote up or down, but don't support it.

LEG. BISHOP:

Let me ask -- I have --

LEG. TOWLE:

Vote up or down.

LEG. FISHER:

Vote up or down, but don't support it.

LEG. TOWLE:

He's spoken, you heard that now.

P.O. TONNA:

Okay. On the motion.

LEG. CRECCA:

I'll withdraw your motion?

P.O. TONNA:

Can you withdraw your motion.

LEG. CRECCA:

Yes.

LEG. TOWLE:

Withdraw your motion.

P.O. TONNA:

Okay. There's a motion to approve and a second.

LEG. CRECCA:

I'll withdraw my motion.

LEG. CARACCIOLO:

9-9 doesn't carry today.

P.O. TONNA:

Excuse me?

LEG. TOWLE:

That's fine. Let's go.

LEG. BISHOP:

Yes, his point is well made, but I don't think you're going to end up voting against Riverhead. But what I want is for the County Executive's Office, who were here previously on these votes, to reappear.

P.O. TONNA:

Waiting for hours.

LEG. BISHOP:

Is there a representative who can speak to this resolution?

P.O. TONNA:

I'm sure. I'm sure there's -- you know, I know that they would bring a qualified representative at all times, you know, to address issues of the County.

LEG. FIELDS:

They've been here a couple of times.

LEG. BISHOP:

Yes, but there seems to be a change, is there not? Do we have anything in writing.

P.O. TONNA:

Okay.

LEG. BISHOP:

It's completely contrary to what they said.

P.O. TONNA:

Is there somebody from the County, Barbara? Hey, the mole, mole, go out and get -- no, I'm joking.

LEG. TOWLE:

She's working for GNC right now.

LEG. BISHOP:

You're talking to me that way? Drop the thing at this point.

P.O. TONNA:

I want to hear about this ski mask.

LEG. BISHOP:

You've got to be kidding me.

MS. LOMORIELLO:

It was really Spiderman.

P.O. TONNA:

As long as it wasn't stockings. Okay.

LEG. CARACCIOLO:

Mr. Chairman, while -- Mr. Chairman.

P.O. TONNA:

Yes.

LEG. CARACCIOLO:

Question for Counsel, or maybe Legislator Postal.

D.P.O. POSTAL:

I'm sorry. The question -- Counsel, does the resolution now contain a provision to transfer credits to Wyandanch? No.

MR. SABATINO:

No, it does not.

LEG. BISHOP:

Okay. Let's call the vote.

LEG. TOWLE:

Call the vote.

LEG. GULDI:

Motion to approve.

P.O. TONNA:

So now you don't want to -- you don't want to -- you don't care about the County Executive's representatives now?

LEG. FISHER:

I'll second, second the motion to approve.

P.O. TONNA:

There's a motion to approve and a second. Roll call.

MR. BARTON:

Legislator Postal.

LEG. LINDSAY:

Wait a minute, wait a minute. Let's get an explanation of what we're voting on.

P.O. TONNA:

Okay. Legislator Lindsay would like an explanation of the bill.

MR. SABATINO:

Okay. This is -- this Local Law will permit the County of Suffolk to work with the Town of Riverhead to prepare and submit an application to expand the -- to expand the Economic Development Zone, so that 28.01 acres in Downtown Riverhead, 1,116 acres of industrial zone land at the Grumman property site, which is the old Calverton Airport, and 48 acres at Gabreski Airport, and another 25.73 acres along the Peconic River within the Town of Southampton, will be eligible for all of the tax advantages that are derived from the establishment of the Economic Development Zone. That ranges from sales tax to property tax abatements across the board.

LEG. LINDSAY:

Okay. Could I just ask, Legislator Postal, where does Wyandanch come into this?

D.P.O. POSTAL:

There are 62 excess acres that have not been designated for this Empire Zone. I think that I and maybe some other members of the Legislature were under the mistaken impression that in order to transfer those 62 acres to anyplace, the Town of Riverhead had to approve it via Town resolution. However, I have learned that that's not true at all, and it is the prerogative of the County to transfer those excess acres to another part of the County. Now, the other part of the County that it would be transferred to would be the commercial area in the Hamlet of Wyandanch. So that's really what's at issue here.

There's an opportunity to designate the commercial area of Wyandanch as an Empire Zone, which, obviously, would have a tremendously beneficial impact on, as I -- what I said before, probably what's the most depressed area economically in the County, and if it's not the most, it's probably tied for first. So this would make --

LEG. LINDSAY:

But that isn't part of this resolution.

D.P.O. POSTAL:

No, it's not. It's been a discussion.

LEG. LINDSAY:

So shouldn't the bill be modified to include Wyandanch before we vote on it?

D.P.O. POSTAL:

No, it doesn't have to be.

LEG. CARACCILO:

Well, that's a risk you take by not having it in there.

D.P.O. POSTAL:

I'm going to take the risk.

LEG. LINDSAY:

But how do we know it's going to be transferred to Wyandanch.

D.P.O. POSTAL:

It's my district, I'm going to take the risk.

LEG. LINDSAY:

But how do we know it's going --

D.P.O. POSTAL:

Because a verbal commitment has been made to me.

LEG. CRECCA:

We were meeting in two weeks.

LEG. CARACCILO:

Well, pardon me. With all due respect --

D.P.O. POSTAL:

I know. I know we have a meeting.

LEG. CARACCILO:

Point of order. Counsel, if there is a verbal commitment, then why are we doing a resolution to transfer credits to other municipalities? Counsel, if you don't mind, Bill.

LEG. LINDSAY:

No, go ahead.

MR. SABATINO:

In fairness to, you know, the speaker, maybe the verbal commitment is to file subsequent legislation to make a modification. But if you're relying on the verbal commitment by itself, that's not going to have the force and effect of a Local Law.

LEG. CARACCILO:

I agree. And I would support, I would support --

LEG. LINDSAY:

Could I take this back, because I had the --

LEG. CARACCILOLO:

Go ahead, Bill.

LEG. LINDSAY:

I want to make a motion to reconsider the tabling resolution, and I was on the negative side.

D.P.O. POSTAL:

Okay.

LEG. CARACCILOLO:

Prevailing side. I'll second your --

D.P.O. CARACAPPA:

Oh, it was 9-9.

LEG. BISHOP:

I have a question.

LEG. LINDSAY:

Why can't I do that?

LEG. BISHOP:

And I think I can help you.

LEG. CARACCILOLO:

You can. You can.

LEG. BISHOP:

Is the --

LEG. CARACCILOLO:

Paul. No, that Paul.

MR. SABATINO:

The prevailing side was anybody who voted against tabling. I don't know who voted -- it was 9-9. Was Legislator Lindsay one of the nos?

LEG. FISHER:

But Bill was on the prevailing side.

MR. BARTON:

Yes.

MR. SABATINO:

Then he would be the appropriate person to make the motion.

P.O. TONNA:

All right. There's a --

LEG. BISHOP:

On the motion. I have a question on the motion.

P.O. TONNA:

Okay. But just the motion is by --

LEG. CARACCILO:

The motion to table takes precedence.

P.O. TONNA:

-- Legislator Lindsay, seconded by Legislator --

LEG. CARACCILO:

Caracciolo.

P.O. TONNA:

Caracciolo.

LEG. GULDI:

Motion to reconsider.

P.O. TONNA:

Okay. It's for the reconsidering vote, and now --

LEG. GULDI:

On the motion.

P.O. TONNA:

-- Legislator Bishop wants to be recognized on the reconsidering vote.

LEG. BISHOP:

Yeah, on the reconsidering vote.

P.O. TONNA:

Right.

LEG. FISHER:

I have a question as well of Counsel.

LEG. BISHOP:

My question, Counsel -- are you with me? My question is this resolution has the effect of creating a zone, a Suffolk County zone. It's Legislator Postal's understanding that the Suffolk County board that governs this, I assume it's the Department of Economic Development, perhaps, has the authority, therefore, with any excess acreage to do with it what it sees fit.

D.P.O. POSTAL:

That's right.

LEG. BISHOP:

And that's why Wyandanch doesn't need to be explicitly named in the resolution.

D.P.O. POSTAL:

That's right.

LEG. FISHER:

It doesn't have to be named in the resolution.

D.P.O. POSTAL:

And that's why the Town of Riverhead does not have to, by action of the Town Board, pass a resolution to --

LEG. BISHOP:

Right, I understand that aspect of it. But I want to know, in terms of the County's authority --

D.P.O. POSTAL:

The County has the ability to designate the use of that 62 acres. It just --

LEG. BISHOP:

Right.

D.P.O. POSTAL:

-- that is its -- it has to be --

LEG. BISHOP:

So it doesn't need to be in the resolution.

D.P.O. POSTAL:

No, no, it doesn't.

LEG. CARPENTER:

Can I make a comment?

LEG. LINDSAY:

But if the County Executive's Office is willing to do that, why aren't they willing to modify the resolution to put Wyandanch in the resolution?

D.P.O. POSTAL:

Honestly --

LEG. CARPENTER,

May I be recognized?

D.P.O. POSTAL:

-- I don't know, but, you know, at the point --

LEG. CARPENTER:

May I be recognized?

D.P.O. POSTAL:

At the point that we had discussed this, there were some other strategies --

LEG. CRECCA:

Paul, add me to the list, too.

P.O. POSTAL:

-- involved, and this is where we ended up.

P.O. TONNA:

Okay. Alden is next.

LEG. ALDEN:

No, I'm after Crecca.

LEG. FISHER:

I thought I had a question first.

P.O. TONNA:

Okay. Legislator Fisher.

LEG. FISHER:

It was very short.

P.O. TONNA:

Just wait one second. I got the -- Fisher, Carpenter, Crecca.

LEG. ALDEN:

Then me.

P.O. TONNA:

Alden. Okay.

LEG. FISHER:

Paul Sabatino, when you were explaining the resolution, you mentioned the Town of Riverhead, but you did not mention Southampton. My recollection is that it's both?

MR. SABATINO:

No, I did mention Southampton. There are four -- there are four components. It's 28.01 acres in Downtown Riverhead.

LEG. FISHER:

You mentioned Southampton? I'm sorry, I missed that.

MR. SABATINO:

There's 1,116 acres at the Calverton site, there's 48 acres at the Gabreski Airport, and there's 25.73 acres along the Peconic River, which is in Southampton. The 62 acres I'm not familiar with, but -- the 62 acres is not part -- the 62 acres are not identified here.

LEG. FISHER:

Okay. I apologize. I had just not heard you mention Southampton. I wanted to make sure that that was clear to everyone.

MR. SABATINO:

Oh, definitely, yes.

P.O. TONNA:

Okay. Thank you. Legislator Carpenter.

LEG. CARPENTER:

It seems to me that based on what Legislator Postal is saying, we really are in a very good -- have a unique opportunity to make a real difference in the community and in the County as a whole by broadening that Economic Development Zone to an area like Wyandanch. And I know that Legislator Lindsay said that he would reconsider his motion. I think we should table this tonight, and I think it's imperative that the, you know, Department of Economic Development be involved in this, and we have a resolution that identifies Wyandanch, because I think that really makes a lot of sense.

P.O. TONNA:

Okay. All right. Thank you very much, Legislator Carpenter. Legislator Crecca.

LEG. CRECCA:

I guess my reason for speaking was to appeal to Legislator Postal. We have a meeting in two weeks. Legislator Caracciolo has indicated that he has some issues that he'd like to resolve with the Town of Riverhead on this particular bill. I understand, Legislator Postal, and I agree with your position in adding these 62 acres in Wyandanch. However, I still believe that, in deference to Legislator Caracciolo, it is -- it does involve his district. He has requested information. And, Michael, would you agree that -- Michael.

LEG. CARACCIOLO:

Yes.

LEG. CRECCA:

Would you agree that if we table for -- to the next meeting, for the next -- you know, it's two weeks that will go by.

LEG. CARACCIOLO:

I said that earlier, absolutely.

LEG. CRECCA:

That you'll make diligent efforts to --

LEG. CARACCIOLO:

Absolutely.

LEG. CRECCA:

-- get what you need from the Town of Riverhead, so we can move this along?

LEG. CARACCIOLO:

Absolutely.

P.O. TONNA:

But communication is a two-way street. You're reaching out to them, they haven't reached back to you, right?

LEG. FIELDS:

They do that a lot.

P.O. TONNA:

I'm just -- I'm just asking.

LEG. CRECCA:

There's a new spirit of cooperation existing in Riverhead as we speak. Supervisor Caracciolo is going to be speaking with -- oh, I'm sorry.

P.O. TONNA:

All right.

LEG. CARACCIOLO:

Let's move the motion.

D.P.O. POSTAL:

Mr. Chairman.

P.O. TONNA:

All right. Legislator Postal.

D.P.O. POSTAL:

Yeah. You know, I know that things change, as I said here, momentarily, but could I -- I would like to ask, because it seems to me that Legislator Carpenter and Legislator Crecca are suggesting that it be tabled to the December 5th meeting and then it would be supported. Do I have your commitment for that vote?

LEG. CARPENTER:

Yes.

D.P.O. POSTAL:

Both of you?

LEG. CRECCA:

Yes, unless there's some sort of new information, but based on the information I have today.

P.O. TONNA:

Could I --

D.P.O. POSTAL:

I know.

LEG. CARACCILO:

Let's move the motion. That's out of order.

D.P.O. POSTAL:

It's just that -- I'm sorry. I have to say, Mr. Chairman --

LEG. CARACCILO:

Mr. Chairman, that's out of order.

D.P.O. POSTAL:

When there's an "unless", I find it very difficult to make a decision when you give me a response that has been an "unless" in it.

LEG. CRECCA:

Well, Legislator Postal, I'm not going to make a commitment to you on how I'm going to vote on a bill --

D.P.O. POSTAL:

Okay.

LEG. CRECCA:

-- when -- you know, I'm telling you that based on the information I have today --

D.P.O. POSTAL:

Okay. I will --

LEG. CRECCA:

I intend to support this bill.

D.P.O. POSTAL:

And I was on the prevailing side. I will make a motion to reconsider the tabling.

LEG. FISHER:

There's already a motion.

P.O. TONNA:

That's all right. Legislator Alden.

LEG. ALDEN:

Paul Sabatino, I just have a legal question.

P.O. TONNA:

For our Counsel.

LEG. ALDEN:

Legislative Counsel.

P.O. TONNA:

Who's a lawyer.

LEG. ALDEN:

Who's a lawyer. Thanks, Paul. If we pass this as it's currently written, do they have the discretion to just transfer credits wherever they want?

MR. SABATINO:

To my knowledge, no. I mean, to pick up -- first of all, I know that the County Department of Economic Development can't do it. The question is I know there's a separate board out there that actually administers it, but they've got to work within the parameters of what they've got. Now, unless there was a separate resolution that I don't recall that designated 62 acres in Riverhead, I'm just -- I'm not aware of where the 62 acres would come from.

D.P.O. POSTAL:

Well, it's my -- if I could, Mr. Chairman.

MR. SABATINO:

I know it's not Economic Development, that much I can tell you for sure.

P.O. TONNA:

Okay. Hold it one second. I'd ask all Legislators, please, please, there is a lively debate here. Legislator Alden has the floor, and after that, I'm going to recognize Legislator Postal.

LEG. ALDEN:

Legislator Postal wants to finish her comment, because my question to you would be, Legislator Postal, were you under the impression that they had to come back to us, or that they could just unilaterally, without coming back to us, transfer credits to Wyandanch?

D.P.O. POSTAL:

It's my -- first of all, it's my understanding that they can do that. The Executive Branch can do that without coming to us. It's their --

LEG. CARACCILOLO:

Well, then why don't they do that, Maxine? They don't need our approval --

D.P.O. POSTAL:

That's true.

LEG. CARACCILOLO:

-- then we don't need this resolution.

D.P.O. POSTAL:

That's true. They're very concerned about the approval of the Empire Zone that's before us in a resolution.

LEG. CARACCILOLO:

But, Counsel --

D.P.O. POSTAL:

You know, that's the major part of the approval for the Empire Zone. And I was just asking about -- somebody asked about the 62 acres. It's my understanding that the Empire Zone that was approved was "X" number of acres. Now, out of the "X" number of acres, the resolution before us transfers "Y" number of acres. So then you have the combination of "X" and "Y", which leaves 62 acres that are unaccounted for that are not designated in the original zone and are not being transferred, and the County has the ability on its own to transfer those acres elsewhere in the County.

LEG. ALDEN:

I just have one final --

MR. SABATINO:

I mean, okay, that's the --

P.O. TONNA:

Hold it one second. Just wait. I'd ask all Legislators, please, let -- our Legal Counsel, who happens to be an attorney, wants to make a legal opinion. Go ahead.

MR. SABATINO:

Legislator Alden had a question. Let him finish his question.

LEG. ALDEN:

No. But go ahead.

MR. SABATINO:

I didn't mean to interrupt him.

LEG. ALDEN:

Go ahead, Paul, because then I'll ask one question after that.

MR. SABATINO:

Well, I was just going to react to the comment, which was that if it's the County of Suffolk -- then, I mean, the County of Suffolk has to act in its corporate capacity, which would be a resolution. But, again, unless there's a previous resolution I'm not aware of -- I mean, I do recall in the mid 1990's, we did something in the Islip area with the Enterprise Zone, but I just don't recall us doing anything on the Babylon side. That's the only reason I'm a little bit concerned when somebody says that -- I mean, the County, I agree, the County could do it, but that would be like a subsequent separate Legislative act, because the County is acting in its corporate capacity. I know Economic Development can't do it, and I can't imagine somebody could unilaterally do it without delegation of authority, so I --

LEG. ALDEN:

My comment --

MR. SABATINO:

That's just my reaction to the comment that was made.

LEG. ALDEN:

Yeah. My comment would be, then, if we go and take action on this, which would be to approve it, and at sometime later the County Executive can just unilaterally do whatever he wants with all of it anyway, then, you know, what are we doing here? We're not doing good government.

LEG. HALEY:

We're tabling it.

LEG. TOWLE:

We're tabling it.

LEG. CARACCILOLO:

Move the motion, Mr. Chairman.

P.O. TONNA:

Wait. Legislator Postal.

D.P.O. POSTAL:

Yeah. First of all, the designation of this Empire Zone was influenced by the fact that there was a Defense Department installation, as I understand, in that area that is now within the Empire Zone. That makes a tremendous difference. In an application for an Empire Zone, that issue alone sort of gives you extra points. So that's how that came about. We do have -- if we're going to table this, and I, you know, do feel secure, I have commitments from some of my colleagues that they will support this, that I will pursue this between now and December 5th and get additional information, and get it in writing, so that everybody can feel secure about it.

LEG. CARACCILOLO:

Maxine.

D.P.O. POSTAL:

Yeah.

LEG. CARACCILOLO:

I would suggest you have the bill amended to include Wyandanch. I mean, that's your protection. As the district Legislator, that's your protection.

D.P.O. POSTAL:

Now, I don't know --

LEG. CARACCILOLO:

If that's the intent here, you don't need a letter, you need a resolution amending it.

D.P.O. POSTAL:

And I truly don't know or understand why that was not an option. I know that, at one point, we wrongly assumed that the Riverhead Town Council would have to vote to approve such a transfer, and that was the original -- the reason that the resolution was not amended in the first place.

LEG. CARACCILOLO:

But then there was a representation made here by yourself that you've been told that's not the case.

D.P.O. POSTAL:

That's right.

LEG. CARACCILO:

That the County Executive can do it unilaterally. Counsel says he's not aware of any provision in law that gives the County Executive that prerogative. And I would submit, we have a resolution here because it requires Legislative approval.

D.P.O. POSTAL:

And that's what I'm saying I'll get additional information on, and I will get it one way or the other in writing. If it is necessary, if my research tells me that it's necessary to do it by the -- by resolution and we can do it by amending that resolution, then that's the route that I'll take.

LEG. CARACCILO:

Okay.

D.P.O. POSTAL:

If my research shows us something different, I'll take a different route.

LEG. CARACCILO:

Be careful

LEG. HALEY:

We're going to start calling you Mrs. Levy.

P.O. TONNA:

There's a motion and a second to reconsider the tabling motion. All in favor? Opposed?

LEG. TOWLE:

Motion to table.

P.O. TONNA:

Okay. Now there's a motion to table by Legislator Caracciolo, second by myself. All in favor? Opposed? It is now tabled. Thank you very much.

LEG. CARACCILO:

Thank you.

LEG. BISHOP:

This is one of the more bizarre --

P.O. TONNA:

Okay. **1945 (Adopting Local Law No. 2002, Prohibiting the sale of blunt wrappers to minors).** Legislator --

LEG. COOPER:

Motion to approve.

P.O. TONNA:

This is -- okay. This is a motion by Legislator Cooper --

LEG. BISHOP:

Banned.

P.O. TONNA:

-- seconded by Legislator --

LEG. COOPER:

Different ban.

P.O. TONNA:

Bishop?

LEG. BISHOP:

No.

P.O. TONNA:

You're a blunt wrapper banner?

LEG. BISHOP:

No, I'm not a blunt wrapper banner.

P.O. TONNA:

No? All right. Who would like to second this?

LEG. CARACCIOLO:

I'll second it.

LEG. FISHER:

I'll second it.

P.O. TONNA:

Okay, hold it. Seconded by Legislator Fisher. Okay. All in favor? Opposed?

(Opposed Said in Unison by Legislators)

P.O. TONNA:

Okay. This is banning blunt -- wait, hold it one second. Just hold it one second. There's a question about what does this bill do. Paul, before we cast a vote, what does this bill do?

MR. SABATINO:

This legislation bans the sale within the County of Suffolk of the blunt wrappers, which I think examples or models of them were handed out at the last session, to anyone who's under the age of 18, and it will be part of the -- it will be subject to the same penalties that currently apply to the smoking law.

P.O. TONNA:

What is a blunt wrapper?

D.P.O. POSTAL:

I can answer that.

LEG. CRECCA:

How does the bill define blunt wrapper?

P.O. TONNA:

Well, could I just -- Legislator Cooper. Legislator Cooper, could you just tell what is blunt wrapper? It's not rolling paper, right?

LEG. BISHOP:

It's already banned.

LEG. COOPER:

It's a tobacco -- no, it's not.

P.O. TONNA:

Yeah, that's what I thought. You already banned that, right?

LEG. COOPER:

It's tobacco leaves that are candy flavored by the manufacturers, and the purpose is to induce kids to begin smoking. It masks the flavor of the tobacco.

LEG. BISHOP:

Kids with naughty {faudies}.

D.P.O. POSTAL:

If I could add -- and if I could add something.

P.O. TONNA:

On the motion.

LEG. COOPER:

It's supported by the Department of Health and Tobacco Control Program.

P.O. TONNA:

And the blunt wrapper industry, where are they on this?

LEG. COOPER:

They are vehemently opposed.

P.O. TONNA:

Okay.

LEG. ALDEN:

Any tobacco product? On the motion.

P.O. TONNA:

Yeah.

LEG. ALDEN:

Any tobacco product right now is band.

P.O. TONNA:

This is just a tobacco smelling, like tasting type of product.

LEG. COOPER:

These are not, that's why they requested that I introduce this bill.

LEG. ALDEN:

No, it's a leaf. You said it's a leaf, right?

LEG. COOPER:

It's a -- but it's not banned. You can --

LEG. ALDEN:

But it's tobacco, right?

LEG. COOPER:

We found it at 171 convenient stores and service stations that it's --

LEG. ALDEN:

It's tobacco, right, it's a tobacco product?

LEG. COOPER:

It's a tobacco leaf.

LEG. ALDEN:

Right. It's banned already.

LEG. COOPER:

It's not banned.

P.O. TONNA:

Okay.

LEG. COOPER:

That's why they asked me to introduce this bill.

LEG. ALDEN:

It's Federal Government, it's Federal Law.

P.O. TONNA:

So, if there's a blunt wrapper in Suffolk County, it doesn't really exist, right?

LEG. CARPENTER:

Not anymore.

P.O. TONNA:

Okay. All right. There's a motion and a second. All in favor? Opposed? Opposed, Legislator Binder, unless, of course, it's in a car, right?

LEG. HALEY:

I'm opposed.

LEG. ALDEN:

Abstain.

P.O. TONNA:

Unless it's in a car.

P.O. TONNA:

Okay. 1954.

MR. BARTON:

15, 2 no, one abstention.

P.O. TONNA:

(1954 - Adopting Local Law No -- 2002, Prohibiting the sale of blunt wrappers to minors). Okay. Legislator Cooper, I've been up all night waiting for this. Okay. There's a motion --

LEG. COOPER:

I'm going to flip the coin.

P.O. TONNA:

Is there a motion?

LEG. BISHOP:

Table.

LEG. COOPER:

Motion to table.

P.O. TONNA:

Okay. Seconded by myself. All in favor? Opposed? Tabled.

LEG. TOWLE:

Opposed. Opposed.

LEG. BINDER:

Roll call.

P.O. TONNA:

You're opposed to tabling it?

LEG. BINDER:

Roll call.

LEG. TOWLE:

Opposed to tabling it, yes.

P.O. TONNA:

Okay.

LEG. BINDER:

Roll call.

P.O. TONNA:

Can we roll call this?

LEG. BISHOP:

Oh, what is this?

P.O. TONNA:

This tabling.

MR. BARTON:

On the motion to table.

(Roll Called by Mr. Barton, Clerk)

LEG. COOPER:

A motion to table? Yes.

LEG. BISHOP:

Yes.

LEG. CARACCILO:

Yes.

LEG. GULDI:

Yes, to table.

LEG. TOWLE:

No.

LEG. CARACAPPA:

No. Let's kill it.

LEG. FISHER:

Yes.

LEG. HALEY:

No.

LEG. FOLEY:

Yes, to table.

LEG. LINDSAY:

Yes, to table.

LEG. FIELDS:

Yes.

LEG. ALDEN:

No, to table.

LEG. CARPENTER:

Yes.

LEG. CRECCA:

Yeah.

LEG. NOWICK:

Yeah.

LEG. BINDER:

No.

D.P.O. POSTAL:

No.

P.O. TONNA:

Yes.

MR. BARTON:

12-6.

P.O. TONNA:

Okay. There we go, we tabled that one. Okay. **1961 (Authorizing execution of an agreement by the Administrative Head of Suffolk County Sewer District No. 11 - Selden with the developer of Fairfield at Pinewood).** Is there a motion?

LEG. TOWLE:

Motion to approve.

P.O. TONNA:

Motion to approve.

LEG. CARPENTER:

Second.

P.O. TONNA:

Seconded by Legislator Carpenter. All in favor? Opposed?

D.P.O. POSTAL:

Roll call.

P.O. TONNA:

Roll -- no, the next one.

D.P.O. POSTAL:

I'm sorry.

MR. BARTON:

18.

P.O. TONNA:

Okay.

LEG. GULDI:

Abstention on that, Henry.

P.O. TONNA:

On 1961?

LEG. HALEY:

I want to abstain on that, too, if you don't mind.

P.O. TONNA:

Okay, three abstentions?

MR. BARTON:

Legislator Guldi, you were a no?

LEG. GULDI:

I'm an abstention.

LEG. CARACAPPA:

I'm a no.

LEG. FISHER:

I'm a no.

P.O. TONNA:

Okay. Here we go.

MR. BARTON:

14, 4 abstentions

P.O. TONNA:

1990 (Appropriating funds for dredging of County waters). A motion by Legislator Foley.

LEG. FOLEY:

Mr. Chairman, I have to table it one more time.

P.O. TONNA:

Fine. Table, second by myself. All in favor? Opposed? Tabled.

(Vote: 18)

2027 (Transferring funds and authorizing the County Comptroller and County Treasurer to close certain capital projects).

LEG. CRECCA:

2027, I'll make a motion to approve.

LEG. HALEY:

Second.

LEG. CRECCA:

We went over this. This was tabled. There were some questions that Legislator Postal --

P.O. TONNA:

Seconded by myself. All in favor? Opposed? Approved.

D.P.O. POSTAL:

Yeah. On the question.

P.O. TONNA:

Oh. Seconded by myself. On the motion.

D.P.O. POSTAL:

Yeah.

P.O. TONNA:

Legislator Postal.

LEG. CRECCA:

Max, I think this -- didn't we address this in finance?

LEG. FOLEY:

Could we table it one more cycle?

LEG. CRECCA:

Okay.

LEG. FOLEY:

It's two weeks.

LEG. CRECCA:

Sorry, Max.

P.O. TONNA:

Hold it one second. Every Legislator has a right --

LEG. CRECCA:

I apologize.

P.O. TONNA:

-- to ask their own question.

LEG. CRECCA:

I wasn't trying to --

D.P.O. POSTAL:

What? What?

LEG. CRECCA:

I thought we did that in Finance.

D.P.O. POSTAL:

We did in Finance.

LEG. FOLEY:

Why don't we table it one more time? Could we table this one, closing the capital projects?

D.P.O. POSTAL:

Well, I would like to just clarify why this resolution is now ready to be approved when it was tabled last time.

LEG. CRECCA:

Can we -- I have somebody from the County Exec's Office to come speak on this one.

P.O. TONNA:

Wait, wait, wait. Legislator Postal has the floor.

LEG. CRECCA:

Well, I'm asking --

P.O. TONNA:

When she's done, then I'll recognize any other Legislator.

LEG. CRECCA:

Recognize.

P.O. TONNA:

Oh, rec-cog-nize.

D.P.O. POSTAL:

Right.

P.O. TONNA:

Not rec-o-nize. Rec-og-nize.

D.P.O. POSTAL:

There were three projects in this resolution originally, which were -- which were appropriated by the Legislature, but the Treasurer failed to transfer the funds, and that was the problem with the resolution. This is like the \$150,000, if you remember, for the Jail Utilization Study, transfer -- appropriated, but never transferred, and that's what caused this to be hung up. Those three appropriations have been removed from this resolution and it's now ready to be approved.

LEG. TOWLE:

Great, go.

D.P.O. POSTAL:

I'm ready.

P.O. TONNA:

Okay. All right. So what are we doing?

LEG. CRECCA:

Motion to approve.

P.O. TONNA:

There's a motion to approve, second. All in favor? Opposed?

MR. BARTON:

18.

P.O. TONNA:

Okay. There we go.

FINANCE & FINANCIAL SERVICES

Okay. **2086 (Authorizing the County Comptroller and the County Treasurer to transfer appropriations from Fund 001 to Fund 632 for mandated debt services cost).** Motion by Legislator Crecca, seconded by Legislator Postal. All in favor? Opposed?

MR. BARTON:

18.

P.O. TONNA:

2100 we've already done. **2114 (A Resolution delegating to the County Comptroller of the County of Suffolk, New York, the power to authorize the issuance of and to sell not exceeding \$250,000,000 tax anticipation notes of said County in anticipation of the collection of real estate taxes or assessments levied or to be levied by said County for the fiscal year commencing January 1, 2003, and providing for other matters in connection therewith).**

LEG. HALEY:

Motion

LEG. TOWLE:

Second.

P.O. TONNA:

Motion by Legislator Postal, seconded by Legislator Haley. All in favor? Opposed?

MR. BARTON:

18.

SOCIAL SERVICES

Social Services. Motion -- **2078 (Authorizing County Department of Social Services (DSS) to provide non-perishable food items when providing housing accommodations to public assistance recipients).** Motion by Legislator Nowick, seconded by myself. All in favor? Opposed?

LEG. FISHER:

Cosponsor.

LEG. TOWLE:

Cosponsor, as well.

MR. BARTON:

18.

P.O. TONNA:

Okay. Excellent piece of legislation. **2099 (Authorizing the transfer of funds to the Victims Information Bureau of Suffolk (VIBS) to continue the CPS/Domestic Violence Coordination Project, and authorizing the County Executive and the Commissioner of Social Services to execute the contract).** Motion by myself, seconded by Legislator Fisher. All in favor? Opposed?

MR. BARTON:

18.

ENVIRONMENT, LAND ACQUISITION AND PLANNING

P.O. TONNA:

All right. Now we're into Energy and Environment. **2001 (Authorizing planning steps for the acquisition of land under Pay-As-You-Go 1/4% Taxpayer Protection Program (Land of Peat Hole Pond, Bellport,Town of Brookhaven)).** Motion by Legislator Towle.

LEG. FOLEY:

Second.

P.O. TONNA:

Seconded by Legislator --

LEG. FOLEY:

Second.

LEG. TOWLE:

Foley.

P.O. TONNA:

Foley. All in favor? Opposed?

MR. BARTON:
18.

LEG. FOLEY:
Cosponsor, Henry.

LEG. GULDI:
Cosponsor.

P.O. TONNA:
2019.

LEG. FOLEY:
Henry, cosponsor.

P.O. TONNA:
Motion by Legislator --

LEG. FISHER:
Motion.

P.O. TONNA:
-- Fisher, seconded by Legislator Foley. All in favor? Opposed?

LEG. HALEY:
Opposed.

LEG. LINDSAY:
Opposed.

LEG. TOWLE:
Cosponsor.

LEG. CARACCIOLO:
Cosponsor.

P.O. TONNA:

Okay. We've got opposed Legislator Lindsay, and Legislator Haley, and Legislator Binder.
Legislator Binder?

LEG. CRECCA:
Roll call.

P.O. TONNA:
Okay. Oh, come on, we just got that.

MR. BARTON:
I've got it, 15.

P.O. TONNA:
Okay.

MR. BARTON:
15-3.

P.O. TONNA:
Okay. **2055 (Amending the 2002 Capital Budget and Program, appropriating funds for the acquisition of Normandy Manor (CP 7430)).** Motion by Legislator Cooper

LEG. COOPER:
Motion to table.

P.O. TONNA:
Oh, table, oh. Second. All in favor? Opposed? Tabled.

MR. BARTON:
18.

P.O. TONNA:
2061 (Authorizing planning steps for acquisition under Suffolk County Multifaceted Land Preservation Program (Church of Jesus Christ Latter Day Saints Property) Town of Smithtown). Motion by Legislator Crecca, seconded by Legislator Foley. All in favor? Opposed?

MR. BARTON:
18.

P.O. TONNA:
2079, motion --

LEG. CARACCILO:

Hold it, hold it. Wait. This is seven acres, five acres of wetlands? I'm abstaining.

LEG. FOLEY:

Planning steps, this is planning steps.

P.O. TONNA:

What? This is 2061?

LEG. CRECCA:

This is not that, this is a different bill, Mike.

LEG. CARACCIOLO:

What's different?

LEG. CRECCA:

You're talking about Spectacle Lake. This is not Spectacle Lake, this is the one in Commack.

LEG. CARACCIOLO:

What's the size of this property?

P.O. TONNA:

This is the Church of the Latter Day Saints.

LEG. CRECCA:

I don't -- five-and-a-half acres.

P.O. TONNA:

They have really good commercials.

LEG. CRECCA:

This is the one that's pressure for development, Mike.

LEG. BISHOP:

They're even more pious than you.

MR. BARTON:

Okay. It's 18.

P.O. TONNA:

Pious or pompous, which word did you really mean? Okay.

LEG. BISHOP:

Pious.

P.O. TONNA:

Okay.

LEG. BISHOP:

You're not pompous.

P.O. TONNA:

2061. Are we making a motion to approve?

MR. BARTON:

I have it.

P.O. TONNA:

Seconded by Legislator Caracciolo. All in favor? Opposed?

There we go.

MR. BARTON:

18. It's approved again.

P.O. TONNA:

2079 (Making a SEQRA determination in connection with the proposed construction of a maintenance building at Timber Point Country Club, Town of Islip). Motion by --

LEG. CARPENTER:

Motion.

LEG. TOWLE:

Motion.

P.O. TONNA:

Wait. Timber Point?

LEG. CARPENTER:

That's me.

LEG. TOWLE:

It's a SEQRA.

P.O. TONNA:

Okay, Legislator -- okay. Okay. Motion by Legislator Fields, second by Legislator Alden. All in favor? Opposed? You never know whose district this will be in later.

MR. BARTON:

18.

P.O. TONNA:

Just a little inside joke. All right. It is a joke.

2095A (Amending the 2002 Capital Budget and Program and appropriating funds in connection with the Environmental Health Laboratory Equipment (CP 4079)).

LEG. CARACCILO:

Motion.

P.O. TONNA:

Motion by Legislator Caracciolo.

LEG. FISHER:

Second.

P.O. TONNA:

Seconded by Legislator Fisher. Roll call.

MR. BARTON:

Okay.

(Roll Called by Mr. Barton, Clerk)

LEG. CARACCILO:

Yes.

LEG. FISHER:

Yes.

LEG. GULDI:

Yes.

LEG. TOWLE:

Yes.

LEG. CARACAPPA:

Yes.

LEG. HALEY:

Yes.

LEG. FOLEY:

Yes.

LEG. LINDSAY:

Yes.

LEG. FIELDS:

Yes.

LEG. ALDEN:

Yes.

LEG. CARPENTER:

Yes.

LEG. CRECCA:

Sure.

LEG. NOWICK:

Yes.

LEG. BISHOP:

Yes.

LEG. BINDER:

Yes.

LEG. COOPER:

Yes.

D.P.O. POSTAL:

Yes.

P.O. TONNA:

Yeah.

MR. BARTON:

18 on the bond.

P.O. TONNA:

Fine. Same motion, same second, same vote. Okay. **Procedural Motion Number 11.**

Legislator Cooper?

LEG. COOPER:

Motion to approve.

LEG. BISHOP:

Another ban.

LEG. BINDER:

No, this is the authorization of Normandy Manor.

P.O. TONNA:

All right. There's a motion to approve, seconded by Legislator Bishop.

LEG. CARACAPPA:

On the motion.

LEG. COOPER:

Wait. Question to Counsel. Paul, is there a conflict if we moved ahead and approved this when the other was tabled for that correction?

MR. SABATINO:

No. Actually, the procedural motion should be done first to authorize the expenditure, and then the bill that was tabled would be the funding mechanism to pay the additional \$20,000.

LEG. COOPER:

Okay. Motion to approve.

MR. SABATINO:

That would be the bill to appropriate the money from the Capital --

P.O. TONNA:

You're seconding it?

LEG. BINDER:

Second.

P.O. TONNA:

All right. Legislator Binder wanted to second that, sorry. Okay. It's motion by Legislator Cooper, seconded by Legislator Binder. On the motion.

LEG. ALDEN:

On the motion.

P.O. TONNA:

Oh, Legislator Caracappa, then Legislator Alden.

LEG. CARACAPPA:

All right. First, I need an explanation for additional payment for the acquisition?

P.O. TONNA:

Right.

LEG. CARACAPPA:

Is this for the -- why are we -- why are we now coming up with a -- why is there an additional payment being made for --

LEG. FOLEY:

How much?

LEG. CARACAPPA:

And for how much?

MR. SABATINO:

Because, when Real Estate submitted the initial proposal to you earlier in the year, they didn't factor in all of the soft costs. The soft costs are, \$9,075 for the survey, the appraisal, the environmental audit, title insurance, and \$10,925 was the tax adjustment. So it's a total of twenty --

P.O. TONNA:

So it's \$18,000?

MR. SABATINO:

It's a total of \$20,000.

P.O. TONNA:

Okay. All right. Legislator Alden?

LEG. ALDEN:

The original purchase was -- we bought this and over the appraisal price? We paid over the appraisal price; was that correct?

D.P.O. POSTAL:

Yeah.

P.O. TONNA:

And that wasn't including the soft costs.

LEG. ALDEN:

So now --

MR. SABATINO:

That's correct, because --

LEG. ALDEN:

This adds on to the overpayment above and beyond the appraisal value.

LEG. CARACAPPA:

You thought I was crazy.

MR. SABATINO:

The original -- the earlier Procedural Motion Number 6, which was adopted earlier this year, was necessary under the new rules that had been established by the Legislature for land acquisitions to go through the procedural motion for two-thirds vote to go above the appraised value. Now the soft costs at 20,000 have to be -- have to be approved, if you want to make the payment.

P.O. TONNA:

Great. Okay. All in favor? Opposed?

(Opposed Said in Unison by Legislators)

Opposed. Okay. Legislator Caracciolo, Legislator Caracappa, Legislator Tonna, Legislator Alden. Okay. I guess it's approved.

MR. BARTON:

Caracciolo, Caracappa, Alden, Tonna?

P.O. TONNA:

Yes.

MR. BARTON:

Anybody else? 14-4.

P.O. TONNA:

2050. Motion by Legislator Bishop?

LEG. FOLEY:

No, No, no, 1916.

LEG. COOPER:

No, 1916.

PUBLIC SAFETY & PUBLIC INFORMATION

P.O. TONNA:

No. **1916 (Adopting Local Law No -- 2002, A Local Law to implement enforcement of prohibition on video voyeurism in public fitting rooms, bathrooms, and dressing rooms in Suffolk County).** I just -- video voyeurism.

D.P.O. CARACAPPA:

Another ban.

P.O. TONNA:

Okay.

LEG. COOPER:

It's not a ban, it's a prohibition. Read the title.

P.O. TONNA:

All right.

LEG. COOPER:

Motion to approve.

LEG. FOLEY:

Up or down vote.

P.O. TONNA:

Motion to approve by Legislator Cooper, seconded by?

D.P.O. POSTAL:

I'll second it.

P.O. TONNA:

Seconded by Legislator Postal. Where do you come up with these things? What's going on here?

LEG. HALEY:

Mr. Chairman. Mr. Chairman.

P.O. TONNA:

I mean, I -- yes.

LEG. HALEY:

Mr. Chairman. Six times this week I agreed with you. You know what, I agree with him on this one.

P.O. TONNA:

All right, great. What is going on with this? Could you just -- can you tell me what's the --

LEG. BISHOP:

Impetus.

P.O. TONNA:

What is the --

LEG. BISHOP:

Impetus.

P.O. TONNA:

Impetus or the Legislative intent?

LEG. COOPER:

There's been a State effort ongoing for some time to ban video voyeurism, placing video cameras in -- to prohibit video voyeurism.

P.O. TONNA:

Go ahead.

LEG. COOPER:

In dressing rooms and in private residences. There's a difference between the approach in the Assembly and the approach in the Senate. What New York State law has done, however, is empower local municipalities, such as counties, to grant enforcement powers to our -- Paul, is this correct, to our local County Attorney, as opposed to New York State --

P.O. TONNA:

Please, Legislators.

LEG. COOPER:

As opposed to the New York State Attorney General to facilitate our enforcement of the prohibition that's permitted at -- by the State law.

MR. SABATINO:

The State law already exists. The State law already exists. There are criminal penalties and there are civil penalties. However, there's an option in the State statute which says that if you, as a County, wish to participate in the enforcement, you have to pass a local law to do that. The theory is that there are 62 counties in the State of New York. The Attorney General has limited resources. If you want to at the local level enforce the existing State statute on the civil side, because the D.A. is already doing the criminal side, you have to pass a local law if you wish to opt in.

P.O. TONNA:

Okay. So just private -- public fitting rooms, right?

LEG. COOPER:

Bathrooms and dressing --

P.O. TONNA:

Commercial bathrooms, public bathrooms?

LEG. COOPER:

Public, public.

MR. SABATINO:

Retail stores, motels, hotels, restaurants, all public places of that nature where there's a bathroom or a dressing room.

P.O. TONNA:

Not in the homes.

LEG. COOPER:

Correct. We don't have that authority.

LEG. BISHOP:

Why, because you think it should be allowed in homes?

P.O. TONNA:

No, because I'm just trying to see the extent of this. I just want to know the extent of this, you know, piece of legislation.

D.P.O. POSTAL:

Mr. Chairman.

P.O. TONNA:

Yes.

D.P.O. POSTAL:

I don't know if the members of the Legislature will remember, but just within the past few years, there was a young woman who was videotaped in her own apartment by her landlord, who secretly installed a video camera.

LEG. FISHER:

This doesn't cover that?

D.P.O. POSTAL:

No, no, it doesn't cover that. But it pointed up the need for legislation. Now, right now in the State Legislature, there is nothing that's been passed with regard to private residences. However, there is a bill in the Senate and a different bill in the Assembly, and they have some minor differences, and so, so far, they haven't been able to come together. We passed a sense relatively recently asking them to make some kind of compromise and both agree to this. But this is -- at least enables us to enforce the prohibition against invasion of privacy in public places.

LEG. LINDSAY:

Mr. Chairman.

P.O. TONNA:

Yes.

LEG. LINDSAY:

Who's going --

P.O. TONNA:

All right.

LEG. LINDSAY:

I just want to know who's going to enforce this?

P.O. TONNA:

How about union halls?

LEG. LINDSAY:

I don't care.

P.O. TONNA:

All right.

LEG. LINDSAY:

Put whoever you want.

LEG. GULDI:

They're all wired anyway.

LEG. LINDSAY:

Who's going to --

P.O. TONNA:

They're all wired anyway. That's great. That is good.

LEG. LINDSAY:

Who is going to enforce this in County government?

MR. SABATINO:

The District Attorney on the criminal side, the Law --

LEG. LINDSAY:

Which he already has the power to, right?

MR. SABATINO:

And the Law Department on the civil side.

P.O. TONNA:

What is -- wait. Can I -- wait. This is my concern. What do you mean on the criminal side and the civil side, what happens? Two lawyers go in, one is an Assistant District Attorney, one is a County Attorney, they flip their badge, they look at the recorder and they say, "Okay"? How does that work?

MR. SABATINO:

No. Under State Law, there are currently two separate sets of penalties, one is a felony, which is a criminal penalty for the video recording devices, and there's a violation for the nonvideo recording device. By the same token, there's also civil fines, which are separate and apart from criminal, but the District Attorney can't enforce civil crimes.

P.O. TONNA:

Okay.

MR. SABATINO:

Only the Attorney General can, or if a county opts in, a law department.

P.O. TONNA:

Okay. So, basically, it's in the hands of the District Attorney, though, right?

MR. SABATINO:

Well, only for the felony in the video -- in the video recording device area. If it's not -- if it's just a two-way mirror, then it's not a felony and you're limited to just a violation with a \$300 and 15 day violation. That's why the civil fines are deemed to be --

P.O. TONNA:

Right. Okay. Two-way mirror. I want to go over this for one second. Two-way mirror, who finds it out, the cops? They look, they see there's a two-way mirror and then they bring it to the -- I'm just trying to get an idea.

[SUBSTITUTION OF STENOGRAPHER - ALISON MAHONEY]

MR. SABATINO:

This is -- there have been cases on Long Island where people in retail stores when they were purchasing clothing were -- they learned afterwards that there was a two-way mirror that --

P.O. TONNA:

Okay, and they bring it to the attention --

MR. SABATINO:

They reported that to the police and then you can --

P.O. TONNA:

Oh, okay. So the police -- okay. As long as it's in law enforcement hand, that's all I want.

LEG. LINDSAY:

I have another question.

P.O. TONNA:

Okay, go ahead.

LEG. LINDSAY:

So this bill that we're addressing now only applies to civil side and gives the County Attorney the ability to sue civilly for this action.

MR. SABATINO:

Correct. They would piggyback on -- if the District Attorney had a case where --

LEG. LINDSAY:

The District Attorney already has the authority, right?

MR. SABATINO:

Yeah, under State law.

LEG. LINDSAY:

Right.

MR. SABATINO:

But the DA can't go out and collect those civil fines because --

LEG. LINDSAY:

Here's my question. If we don't pass this bill, does the Attorney General's Office have the right to pursue that civilly?

MR. SABATINO:

Yes, the Attorney General currently has the authority.

LEG. LINDSAY:

If we pass this bill, does this somehow preempt the Attorney General from acting?

MR. SABATINO:

No, it's supplemental, it's complimentary.

LEG. FISHER:

Paul, just a short question.

P.O. TONNA:

Yes.

LEG. FISHER:

So then it's basically on complaints, I mean, there's no one going around making inspections.

MR. SABATINO:

I don't think the resources exist to do that. The history of it has been if people find something out, they complain.

LEG. FISHER:

Okay, it's on complaints.

P.O. TONNA:

Okay. All right. All in favor? Opposed?

LEG. BISHOP:

All that for that, huh?

MR. BARTON:

18.

P.O. TONNA:

2050 - Authorizing, empowering and directing County Police Department to participate in Amber Plan (Bishop). Motion by Legislator Bishop. What is this?

LEG. BISHOP:

It codifies what they're already doing.

LEG. CARPENTER:

Second.

LEG. CARACCILO:

Second.

P.O. TONNA:

All in favor? Opposed? Carpenter is the second.

MR. BARTON:

Who made the motion, Mr. Chairman?

P.O. TONNA:

Legislator Bishop, the sponsor of this --

MR. BARTON:

Thank you.

P.O. TONNA:

-- ground-breaking legislation.

LEG. CRECCA:

Cosponsor.

MR. BARTON:

18.

P.O. TONNA:

2096, 2096A - Amending the 2002 Capital Budget and Program and appropriating funds in connection with the Probation Officer Remote Access System (CP 3048) (County Executive). Motion by --

LEG. BINDER:

Henry, I'm cosponsor.

P.O. TONNA:

This was discharged without recommendation and this is a motion by Legislator Carpenter?

LEG. CARPENTER:

Yes, we needed to get some clarification on the offset.

LEG. TOWLE:

Second.

P.O. TONNA:

Second by Legislator Towle. Okay, roll call.

LEG. FOLEY:

What's the offset? What's the offset?

P.O. TONNA:

What is the offset?

MR. SABATINO:

The offset came from the Internet Commerce Server. The question in committee was whether or not taking that offset from the County Clerk's Office could have some kind of an adverse impact on collecting fees from the County Clerk's Office, that was the question that was deferred to the floor. The offset is fine unless there's a concern that it adversely affects the ability of the Clerk to collect fees.

P.O. TONNA:

Okay.

LEG. CARPENTER:

Did we get an answer to that?

MR. SABATINO:

The answer was going to -- it was deferred to the floor to either get that answer or the bill would

be tabled if we didn't get the answer. So I don't know if anybody is here to give the answer.

P.O. TONNA:

Do we have an answer?

LEG. BISHOP:

Can BRO answer that or --

LEG. CARPENTER:

Budget Review, did you get an answer on that? Because I think they were checking on it.

MR. POLLERT:

Yes.

P.O. TONNA:

Yes, we do.

MR. POLLERT:

We contacted the County Clerk's Office. The County Clerk would -- is concerned about putting his files up without the capability --

LEG. BISHOP:

Motion to table.

MR. POLLERT:

-- of the County to be able to process it. I spoke with Bob Donnelly, Bob Donnelly feels that with the amount of money that's being pulled out of it he can continue to purchase an Internet server but he has no intention to do so before the end of the year.

LEG. CARPENTER:

Okay. Motion to approve.

P.O. TONNA:

Okay, seconded by Legislator Bishop. All in favor? Opposed?

LEG. HALEY:

Roll call.

(*Roll Called by Mr. Barton, Clerk*)

LEG. CARPENTER:

Yes.

LEG. TOWLE:

Yes.

LEG. CARACCIOLO:

Yes.

LEG. GULDI:

Yes.

LEG. CARACAPPA:

Yes.

LEG. FISHER:

Yes.

LEG. HALEY:

Yes.

LEG. FOLEY:

Yes.

LEG. LINDSAY:

Yes.

LEG. FIELDS:

Yes.

LEG. ALDEN:

Yes.

LEG. CRECCA:

Yes.

LEG. NOWICK:

Yes.

LEG. BISHOP:

Yes.

LEG. BINDER:

Yes.

LEG. COOPER:

Yes.

LEG. POSTAL:

Yes.

P.O. TONNA:

Yes.

MR. BARTON:

18 on the bond.

P.O. TONNA:

Okay, now we go to same motion, same second, same vote. Thank you.

Public Works & Transportation:

2084, 2084A - Amending the 2002 Capital Budget and Program and accepting and

appropriating funds and authorizing the award of contracts for the purchase of up to twenty-eight (28) transit buses, related spare parts, radios, fareboxes and bus inspection/audit services during manufacture (CP 5658) (County Executive). Motion by Legislator Caracappa, seconded by Legislator Foley.

LEG. ALDEN:

On the motion.

P.O. TONNA:

On the motion.

LEG. ALDEN:

I just want to point out that -- this is for 28 transit buses? A report just came out on Long Island Bus, they've been using gas, not gasoline but natural gas vehicles, this is not for purchase, this is for conventional buses; is that correct?

LEG. CARACAPPA:

Yes, it's based on a grant that we received for Federal pass-through monies.

LEG. ALDEN:

Okay. I just want to point out something, though, and I've been here for five years so five years ago I asked DPW to do some kind of study or really give me a feasibility study on whether we could do that. We already headlined up possibly either grant money or some other way of paying for the fueling stations because the fueling stations are -- that's the biggest problem with their natural gas. As far as the construction of the vehicle and the construction of the motor, they've made great strides in the last two, three, four, five years.

LEG. CARACAPPA:

This doesn't apply.

LEG. ALDEN:

So they're a viable thing. What we're doing here, even if we're getting a grant for it, we're putting 28 more diesel powered buses out and we really don't have a feasibility study in front of us as far as where they want to go or where they even would report to us as far as whether we could do it or not, and I find that just a little bit backwards as far as the way I would like to see

this go.

P.O. TONNA:

Okay. Roll call.

(*Roll Called by Mr. Barton, Clerk*)

LEG. CARACAPPA:

Yes.

LEG. FOLEY:

Yes.

LEG. CARACCIOLO:

Yes.

LEG. GULDI:

Yes.

LEG. TOWLE:

Yes.

LEG. FISHER:

Yes.

LEG. HALEY:

Pass.

LEG. LINDSAY:

Yes.

LEG. FIELDS:

Yes.

LEG. ALDEN:

No.

LEG. CARPENTER:

Yes.

LEG. CRECCA:

Yes.

LEG. NOWICK:

Yes.

LEG. BISHOP:

No.

LEG. BINDER:

Yes.

LEG. COOPER:

Yes.

LEG. POSTAL:

Yes.

P.O. TONNA:

Yeah.

LEG. HALEY:

No.

LEG. BISHOP:

He's been screaming about it for five years.

P.O. TONNA:

Okay, same motion, same second, same vote.

MR. BARTON:

15-3 (Opposed: Legislators Alden, Bishop & Haley).

P.O. TONNA:

2090, 2090A - Amending the 2002 Capital Budget and Program and appropriating funds in connection with improvements to CR 80, Montauk Highway between NYS 112 and CR 101, Sills Road, Town of Brookhaven (CP 5534) (County Executive). Motion by Legislator Foley, seconded by Legislator Towle?

LEG. TOWLE:

Yep.

P.O. TONNA:

Roll call.

(* Roll Called by Mr. Barton, Clerk*)

LEG. FOLEY:

Yes.

LEG. TOWLE:

Yes, cosponsor.

LEG. CARACCIOLO:

Yes.

LEG. GULDI:

Yes.

LEG. CARACAPPA:

Yep.

LEG. FISHER:

Yes.

LEG. HALEY:

Yes.

LEG. LINDSAY:

Yes.

LEG. FIELDS:

Yes.

LEG. ALDEN:

Yes.

LEG. CARPENTER:

Yes.

LEG. CRECCA:

Yes.

LEG. NOWICK:

Yes.

LEG. BISHOP:

Yes.

LEG. BINDER:

Yes.

LEG. COOPER:

Yes.

LEG. POSTAL:

Yes.

P.O. TONNA:

Yeah.

MR. BARTON:

18 on the bond.

P.O. TONNA:

Same motion, same second, same vote.

LEG. FOLEY:

Thank you.

P.O. TONNA:

Okay, now we're into **Health:**

2020 - Adopting Local Law No. 2002, a Local Law to strengthen smoking prohibition in indoor places (Foley). I got my eyes on you. Legislator Foley?

LEG. FOLEY:

Motion to table, Mr. Chairman.

P.O. TONNA:

Seconded by myself. All in favor? Opposed? Tabled. 2082 --

LEG. BINDER:

No, no, no, on the motion.

LEG. HALEY:

Whoa, whoa, wait a minute. Wait, on the motion.

P.O. TONNA:

On the motion to table.

LEG. HALEY:

I would like to make a motion to table subject to call.

LEG. BINDER:

I will second that.

P.O. TONNA:

Okay, there's a motion to table subject to call by Legislator Haley, seconded by Legislator Binder.

LEG. FOLEY:

Mr. Chairman, on the motion to table subject to call.

P.O. TONNA:

Yes.

LEG. FOLEY:

I would hope that we would defeat this motion. I intend to have the Commissioner of Health to speak before all 18 members at next -- December 5th's General Meeting. She couldn't be here this evening because she is, in fact, in San Francisco at a National Conference on

Tobacco Control and Smoking Cessation, she's one of the keynote speakers. And I think that --

LEG. CARACCILO:

A no smoking city.

LEG. FOLEY:

And I think it would be important for the whole Legislature to hear her comments in person as she had expressed them at last week's Health Committee meeting. So I would ask you to please vote down the table subject to call and support the tabling motion so we can discuss this and hopefully vote on it on December 5.

P.O. TONNA:

Okay, now --

LEG. HALEY:

On the motion.

P.O. TONNA:

On the motion, Legislator Haley.

LEG. HALEY:

We have all seen a letter, there's already been a letter written by Commissioner Bradley concerning this. Let's be clear here, I don't really think that anyone here is going to change based on her -- I was going to say recanting -- on her reissuing her opinion on the ban on smoking.

We have had probably hundreds of people talk to us about this, we have been through this over and over and over again. We already have a sense of where this is going, we already have a sense of perhaps there's something to look at at a future date, including my own legislation. My suggestion is to table this subject to call and to move on.

D.P.O. POSTAL:

I think that I'm going to recognize myself since I'm now chairing the meeting.

LEG. HALEY:

You need a mirror?

LEG. POSTAL:

No, I think I can manage without it, I have a good mental picture.

I would hope that people would defeat the motion to table subject to call. I think that the motion to table is a reasonable motion. I can't speak for the prime sponsor of this bill, but perhaps there might be modifications made to the bill sometime between now and December 5th which might influence people's thoughts on this. I think that tabling this subject to call closes out that option. So I would ask that we vote against that and table it to December 5th.

P.O. TONNA:

Okay, roll call on the table subject to call motion.

(*Roll Called by Mr. Barton, Clerk*)

LEG. HALEY:

Yes.

LEG. BINDER:

Yes.

LEG. CARACCIOLO:

No.

LEG. GULDI:

Tabling? No.

MR. BARTON:

Table subject to call.

LEG. GULDI:

No.

LEG. TOWLE:

Yes.

LEG. CARACAPPA:

Yes.

LEG. FISHER:

No.

LEG. FOLEY:

No.

LEG. LINDSAY:

No.

LEG. FIELDS:

No.

LEG. ALDEN:

Nope.

LEG. CARPENTER:

Pass.

LEG. CRECCA:

Yes.

LEG. NOWICK:

No.

LEG. BISHOP:

No.

LEG. COOPER:

No.

LEG. POSTAL:

No.

P.O. TONNA:

Absolutely not.

MR. BARTON:

Five.

P.O. TONNA:

Thank you.

LEG. CARPENTER:

No.

P.O. TONNA:

Now there's a motion and a second to table.

MR. BARTON:

Oh, I'm sorry. Legislator Carpenter, I missed your vote.

LEG. CARPENTER:

No.

P.O. TONNA:

Okay.

MR. BARTON:

Five.

P.O. TONNA:

Okay. Now we have a motion and a second to table. All in favor? Opposed? Roll call.

LEG. HALEY:

On the motion. On the motion.

P.O. TONNA:

Oh, you want to --

LEG. HALEY:

I thought it was very interesting -- no, I mean, I didn't say a whole lot today.

LEG. CRECCA:

We like it that way.

P.O. TONNA:

Legislator --

LEG. HALEY:

I'm sorry, but I didn't make a commitment not to talk.

P.O. TONNA:

Legislator Haley has the floor.

LEG. HALEY:

I'll make it very brief.

P.O. TONNA:

Legislator Haley has the floor.

LEG. HALEY:

I'll make it very brief. I'm really concerned about the incremental approach to banning smoking and its impact on the rights of not only small business but the rights of individuals. And what I'm concerned about this piece of legislation, all of a sudden a new concern to me, is that if you table now all of a sudden we're going to try to cut back a little bit but yet we're still going to have that incremental approach to the invasion on the rights I believe of private business and individuals. Thank you.

P.O. TONNA:

Thank you, Legislator Haley. Okay, so there's a motion and a second to table. Roll call.

(*Roll Called by Mr. Barton, Clerk*)

LEG. FOLEY:

Yes.

P.O. TONNA:

Yeah.

LEG. CARACCILO:

No.

LEG. GULDI:

Yes.

LEG. TOWLE:

No.

LEG. CARACAPPA:

No.

LEG. FISHER:

Yes.

LEG. HALEY:

No.

LEG. LINDSAY:

Yes.

LEG. FIELDS:

Yes.

LEG. ALDEN:

Yes.

LEG. CARPENTER:

No.

LEG. CRECCA:

No.

LEG. NOWICK:

Yes.

LEG. BISHOP:

Yes; one meeting only, Brian.

LEG. BINDER:

No.

LEG. COOPER:

Yes.

LEG. POSTAL:

Yes.

MR. BARTON:

11-7.

P.O. TONNA:

Okay, thank you very much. Now we go to Resolution No. 2082, 2082A - Amending the 2002 Capital Budget and Program and appropriating funds in connection with the purchase of equipment for Health Centers (CP 4055 (County Executive)). Motion by Legislator Foley, seconded by Legislator Fisher. Roll call.

(*Roll Called by Mr. Barton, Clerk*)

LEG. FOLEY:

Yes.

LEG. FISHER:

Yes.

LEG. CARACCIOLO:

Yes.

LEG. GULDI:

Yes.

LEG. TOWLE:

(Not Present).

LEG. CARACAPPA:

Yes.

LEG. HALEY:

Yes.

LEG. LINDSAY:

Yes.

LEG. FIELDS:

Yes.

LEG. ALDEN:

Yes.

LEG. CARPENTER:

Yes.

LEG. CRECCA:

Yes.

LEG. NOWICK:

Yes.

LEG. BISHOP:

Yes.

LEG. BINDER:

Yes.

LEG. COOPER:

Yes.

LEG. POSTAL:

Yes.

LEG. TONNA:

Yes.

MR. BARTON:

17, one not present on the bond (Not Present: Legislator Towle).

P.O. TONNA:

Okay, same motion, same second, same vote.

Okay, now we're at ***2092 - Amending the 2002 Capital Budget and Program and appropriating funds in connection with the improvements to New Skilled Nursing Facility (CP 4057) (County Executive)***. Motion by Legislator Foley, seconded by Legislator Postal. Roll call.

LEG. ALDEN:

Just on the motion. This is for the Foley --

LEG. FOLEY:

Yes.

LEG. ALDEN:

All right, it doesn't say it.

LEG. FOLEY:

For whatever reason, the County Attorney's Office, when they draft these resolutions for the Skilled Nursing Facility, they still refuse to place the formal name of the facility on the resolution.

(*Roll Called by Mr. Barton, Clerk*)

LEG. FOLEY:

Yes.

LEG. POSTAL:

Yes.

LEG. CARACCILOLO:

Yes.

LEG. GULDI:

Yes.

LEG. TOWLE:

(Not Present).

LEG. CARACAPPA:

Yes.

LEG. FISHER:

Yes.

LEG. HALEY:

Yes.

LEG. LINDSAY:

Yes.

LEG. FIELDS:

Yes.

LEG. ALDEN:

Yes.

LEG. CARPENTER:

Yes.

LEG. CRECCA:

Yeah.

LEG. NOWICK:

Yes.

LEG. BISHOP:

Yes, fine.

LEG. BINDER:

Yes.

LEG. COOPER:

Yes.

LEG. TONNA:

Yes.

MR. BARTON:

17, one not present on the bond (Not Present: Legislator Towle).

P.O. TONNA:

Same motion, same second, same vote.

Okay, **2093 - Accepting and appropriating 5.5% Federal TANF Grant Funds and 7.1% State HCRA funds from the New York State Department of Health to the Department of Health Services, Division of Patient Care Services, for the School-based Health Program (County Executive)**. Motion by Legislator Foley, seconded by Legislator Fields. All in favor? Opposed?

LEG. FISHER:

Mr. Chairman, a resolution like this, I was wondering if a resolution of this type could be assigned to both Health and Education Committees?

P.O. TONNA:

The Department of Health and Department of -- for school-based health programs.

LEG. FISHER:

School-based health programs, just because they're school-based.

P.O. TONNA:

I'll ask Legal Counsel who basically, under my aegis, assigns bills.

MR. SABATINO:

Well, health is prime because it was the Division of Patient Care that was getting the funding.

LEG. FISHER:

Yes, I understand that.

MR. SABATINO:

But I see your point in terms of secondary capacity.

P.O. TONNA:

Okay, great. Thank you very much. All in favor? Opposed?

MR. BARTON:

17, one not present (Not Present: Legislator Towle).

P.O. TONNA:

Thank you.

2107, 2107A - Amending the 2002 Capital Budget and Program and appropriating funds for the purchase of automated external defibrillators, AED's, for County Buildings (CP 3205.523).

Motion by Legislator Crecca; right, Legislator Crecca?

LEG. CRECCA:

Yes.

P.O. TONNA:

Seconded by Legislator Carpenter. And just on the motion, they're pronounced the defibrillators.

LEG. CRECCA:

Defibrillators. Also, we had another --

P.O. TONNA:

Another moment.

LEG. CRECCA:

We had another save this week at Hofstra University but it was a Suffolk County game that was being played there, a playoff game.

P.O. TONNA:

Really?

LEG. CRECCA:

And it was -- what's so funny?

LEG. GULDI:

You've got like a score.

LEG. CARACCIOLO:

In Nassau County they don't have a defibrillator law like we have.

LEG. CRECCA:

I don't believe they do. Well, now it's become State law. But my point being is this was a defibrillator that was -- by one of the schools in Suffolk County that was at the field, they brought it with them.

P.O. TONNA:

That's great.

LEG. CRECCA:

And it saved a man's life.

P.O. TONNA:

That's great.

LEG. CRECCA:

He would have died.

P.O. TONNA:

Very good, Legislator Crecca. Roll call. Good work.

(*Roll Called by Mr. Barton, Clerk*)

LEG. CRECCA:

Yes.

LEG. CARPENTER:

Yes.

LEG. CARACCIOLO:

Yes.

LEG. GULDI:

Yes.

LEG. TOWLE:

(Not Present).

LEG. CARACAPPA:

Absolutely.

LEG. FISHER:

Yes.

LEG. HALEY:

Yes.

LEG. FOLEY:

Yes.

LEG. LINDSAY:

Yes.

LEG. FIELDS:

Yes.

LEG. ALDEN:

Yeah, cosponsor.

LEG. NOWICK:

Yes.

LEG. BISHOP:

Yes.

LEG. BINDER:

Yes.

LEG. COOPER:

Yes.

LEG. POSTAL:

Yes.

P.O. TONNA:

Yep.

MR. BARTON:

17, one not present (Not Present: Legislator Towle).

P.O. TONNA:

Same motion, same second, same vote.

Just on this topic, does -- who's -- Ellen Martin or whoever it is, do we have our defibrillator?
Defibrillator; do we have ours here?

MS. MARTIN:

Not yet.

P.O. TONNA:

Oh, we're going to get it? Okay. All right, here we go.

Veterans & Seniors:

2039 - Adopting Local Law No. 2002, a Local Law defining income for senior citizens real property tax exemption. Motion by Legislator Lindsay -- oh, Haley?

LEG. POSTAL:

I'd like to second it.

P.O. TONNA:

Seconded by Legislator Lindsay.

LEG. POSTAL:

And I'd like to be listed as a cosponsor.

LEG. CARPENTER:

Cosponsor.

LEG. BINDER:

Cosponsor.

LEG. HALEY:

Anybody that doesn't want to be cosponsor?

LEG. CARPENTER:

Not Bishop.

P.O. TONNA:

Jim, put that in my newsletter. All in favor? Opposed?

MR. BARTON:

17, one not present (Not Present: Legislator Towle).

P.O. TONNA:

All right, we're tax cutters here. Okay, tax cutter.

-

Consumer Protection & Government Operations:

2038-02 - Adopting Local Law No. 2002, a Charter Law to modify designation of Director of Consumer Affairs as Director of Weights & Measures (County Executive).

Motion by Legislator Alden, seconded by Legislator Haley. All in favor? Opposed?

LEG. FOLEY:

On the motion.

P.O. TONNA:

On the motion.

LEG. FOLEY:

Is this to separate those two designations to two different positions? Because they were combined several years ago when --

LEG. FISHER:

In 1995.

LEG. FOLEY:

Yeah.

LEG. HALEY:

May I?

LEG. FOLEY:

Mr. Gardner, who has done an excellent job as we all would acknowledge --

LEG. HALEY:

I'll defer -- May I?

P.O. TONNA:

Sure; why not, Marty.

LEG. FOLEY:

He was the Director of Consumer Affairs and he became the --

LEG. HALEY:

Maybe the Chairman wants to explain it; would you like to explain it?

P.O. TONNA:

No, that's okay. Legislator Haley, I would like to hear from Legislator Haley.

LEG. HALEY:

No, I understand they have to have a Director of Weights and Measures.

LEG. FISHER:

Yes.

LEG. HALEY:

There has to be, so he has that title. But presently what happens is that in absence of this legislation he could be -- they would be precluded of actually hiring somebody with a title of Director of Consumer Affairs; is that not -- I don't have that correct.

LEG. FISHER:

No.

LEG. HALEY:

No?

P.O. TONNA:

Okay.

LEG. HALEY:

Oh, wait a minute.

P.O. TONNA:

Anyway I appreciate hearing from you. Now Legislative Legal Counsel, just -- who serves as our attorney and is a lawyer.

MR. SABATINO:

In 1996 the Legislature changed the law to merge the two positions so that the Director of Weights and Measures would be the Director of Consumer Affairs; it was done on a cost saving basis to eliminate the other position so you would only be paying for one position. This proposed amendment would go back to the way the law was before 1996 which means that you wouldn't have to be the Director of Weights and Measures in order to be eligible to be the Director of Consumers Affairs. It means that anybody could be the Director of Consumer Affairs, not just the Director to Weights and Measures; that in turn means that you can now have two positions instead of one. So it's basically reversing what was done in 1996 and going back to '95 which would broaden the eligibility of people to qualify for Director of Consumer Affairs.

LEG. FOLEY:

I have a follow-up question.

LEG. FISHER:

On the motion.

LEG. FOLEY:

I have a follow-up question, if I may. Mr. Chairman?

P.O. TONNA:

Okay, there's a parliamentary inquiry?

LEG. FOLEY:

No, a follow-up question to my first question.

P.O. TONNA:

Okay. Go ahead, Legislator Foley.

LEG. FOLEY:

Is the current Director weighing retirement?

LEG. ALDEN:

He was and he pulled his papers back.

LEG. FOLEY:

We need to hear -- say that again.

LEG. ALDEN:

He testified before us that he had put his papers in --

LEG. FOLEY:

Yes.

LEG. ALDEN:

-- and at the last minute he pulled his papers back.

LEG. FOLEY:

All right, so he has no -- so as we speak, he will continue as the Director.

LEG. ALDEN:

Will continue, yes.

LEG. FOLEY:

Perhaps at a future point in time, if and when he does at some point decide to retire, at that point we can decide whether or not we want to, to use that term, bifurcate this particular position, but at this time, I see no reason why we should do it. In fact, at the time in '96 when we approved the commingling of these two positions, it was said to him directly, "Will you be able to do both jobs," he said yes he would, and as we all know over the intervening now six years that he's done a fine job with both. So I think at this point it's premature to divide these positions since the present Director has pulled his retirement papers.

LEG. FISHER:

And in a year where we have talked about streamlining the budget, we certainly shouldn't be adding a position.

P.O. TONNA:

Okay.

LEG. HALEY:

May I finish up?

LEG. ALDEN:

On the motion, though.

P.O. TONNA:

Okay, just -- we had -- Legislator Fisher, are you done?

LEG. FISHER:

Yes.

P.O. TONNA:

Okay. Legislator Alden wants to be recognized and then Legislator Fields.

LEG. ALDEN:

Just a point of clarification from Paul Sabatino. This doesn't add a position, that would have to -- it would actually have to be added at some point in time; is that correct or not correct?

MR. SABATINO:

What this would do is this would amend the County Charter so that a position could be created, but to actually create the position you would have to amend the budget unless some other position were to be earmarked or reclassified. But this is just -- in a perfect world this would be the first step which is to get the Charter authorization in place, but if all procedures are being followed it would take a subsequent resolution to create the position in the budget.

LEG. ALDEN:

And just so that -- you know, I want to make everybody aware of the testimony we heard. There's people right now that say are number two or three in the Consumer Affairs Department that because of this requirement would not be able to ever be named as, I guess it's Director of Consumer Affairs. They wouldn't be able to --

LEG. FISHER:

That's okay.

MR. SABATINO:

No, the key is Director because right now the Director and the -- the Director of the office and the Director of Weights and Measures are one in the same.

LEG. ALDEN:

So the career path of certain people that are in that are completely blocked as far as ever ascending to or whatever.

LEG. HALEY:

Paul?

P.O. TONNA:

Hold it, Legislator Fields first.

LEG. HALEY:

Oh, I'm sorry.

LEG. FIELDS:

If there was a cost savings a couple of years ago to merge these two positions, why on earth now would we be opening it up; at this point in time with the budget that we just went through, why would we be doing that now?

LEG. HALEY:

May I?

P.O. TONNA:

Budget Review, is this going to be -- I think the question that Legislator Fields -- it wasn't a

rhetorical question, I think she kind of wanted an answer.

MR. POLLERT:

It's a County Executive resolution and his fiscal impact statement says that there's no fiscal impact because, as Paul Sabatino said, it really is supposed to be in a perfect world the first step. There is a possibility, if you adopt this resolution, they can take any vacant spot in the budget, do a reclass or an earmark.

LEG. FIELDS:

Right.

MR. POLLERT:

Which will result in one additional title.

LEG. HALEY:

May I?

LEG. FIELDS:

So it's not necessary then. In other words, if this were to pass it would not come back before us for a second position, it's very possible that they reclassify and a second person goes into that position.

LEG. HALEY:

Earmark.

MR. POLLERT:

That could well happen, that's correct.

LEG. HALEY:

It's called earmarking. Mr. Chairman?

P.O. TONNA:

Okay. So just to follow-up to Legislator Fields' question, it might not have fiscal impact in 2003, but since we have our eyes on 2004, it could have fiscal impact in 2004.

MR. POLLERT:

Well, actually it could even have a fiscal impact in 2002 or 2003 depending if, in fact, they decide to do something like that.

LEG. HALEY:

Paul?

P.O. TONNA:

Okay. Legislator Haley and then Legislator Carpenter.

LEG. HALEY:

I think Charlie's point when he appeared before us was that they're required by State law to have a Director of Weights and Measures and his point is you have to fill that position, but it doesn't necessitate that the person who is Director of Weights and Measures has the capabilities of being Director of Consumer Affairs. And I think why they kind of separated that out is so that they still have that Civil Service career path where someone who has the managerial experience can go into that Director's position and not necessarily still be the Director of Weights and Controls (sic).

This County Executive has the opportunity to earmark a whole lot of things. Even if he wanted to earmark somebody into a position slightly different in that department he could do that. So we're not really curtailing earmarking, all we're doing is giving him the flexibility and the career path for those people beneath him to be able to move up should somebody retain the title of Director of Weights and measures.

P.O. TONNA:

Okay. Legislator Carpenter?

LEG. CARPENTER:

I would like to hear from the County Executive's Office on this.

MR. KNAPPE:

Ken Knappe from the Budget Office. The one point that I wanted to bring up, and Legislator

Alden addressed it pretty much, is that the ability to come back in front of the Legislature to fill that position. The position currently is not in the Suffolk County Classification and Salary Plan. For the County Executive to fill that position, the classification plan does need to be amended at a future date and that resolution would have to be approved by this Legislature.

P.O. TONNA:

Okay.

LEG. FIELDS:

Wait, wait, wait. But --

LEG. CARACAPPA:

The reclass has to come back to us.

P.O. TONNA:

Okay. Hold it one second.

LEG. FIELDS:

Is it absolutely impossible for another person to be put into that position by changing --

MR. KNAPPE:

Currently that position does not exist in the classification plan. For any amended --

LEG. FIELDS:

But if this is approved, is there a potential that two people could go into that?

MR. KNAPPE:

Only if the Salary and Classification Plan is amended by the Legislature as well as the County Executive through a resolution; that is my understanding. Counsel could correct me --

LEG. FIELDS:

Could it be earmarked?

MR. KNAPPE:

The position has to be added in the Salary and Classification Plan before an earmark is existed,

and the only way that amendment can happen is in front of the Legislature and ourselves.

LEG. FISHER:

Question; I just have a question about your response.

MR. KNAPPE:

Sure.

LEG. FISHER:

That was a position in 1996, however, so it is a title; it's a title that exists but it was merged.

MR. KNAPPE:

Currently that title is not in existence in the Suffolk County Classification.

LEG. FISHER:

The title does not exist.

MR. KNAPPE:

That's correct.

P.O. TONNA:

Legislator Postal has the floor.

LEG. POSTAL:

Yeah, there are a few issues here. The Legislature previously adopted a policy of consolidating the two positions into one position. If we approve this resolution then we're taking a different position on that policy than we had previously adopted, that's number one. Number two, once we approve this a position could be earmarked and somebody could be put into that position of Director of Weights and Measures and it doesn't have to come back to us at any point. The third issue is Legislator Haley made a statement that we must have a Director of Weights and Measures; is that right?

LEG. HALEY:

Yes.

LEG. POSTAL:

This is like the Department of Health Services. The Department of Health Services has to have a physician at their upper levels. The physician does not have to be the same person who's the Commissioner but in the case of Dr. Mary Hibberd and Dr. Clare Bradley, we had one individual who was the Commissioner and that person was also the physician who was required to oversee patient services in the Department of Health Services. So yes, a Director of Weights and Measures is required, but that doesn't mean that that Director of Weights and Measures who is qualified to be a Director of Weights and Measures could not also be the Director of Consumer Affairs.

So, you know, I would think that if we adopted the policy of consolidating the two positions previously, I think somebody already said and I certainly agree, that in these difficult fiscal times we should hardly reverse ourselves and create two positions. And despite what Ken said, we have seen it many times in this County where once we take this step, if we approve this resolution, we have no ability to exercise any discretion on whether those two positions will, in fact, be filled.

P.O. TONNA:

Okay. Roll call.

(*Roll Called by Mr. Barton*)

LEG. ALDEN:

Yes.

LEG. FISHER:

What's the motion?

P.O. TONNA:

The motion is to approve.

(*Roll Call Continued by Mr. Barton*)

LEG. HALEY:

Yes.

LEG. CARACCIOLO:

No.

LEG. GULDI:

Yes.

LEG. TOWLE:

(Not present).

LEG. CARACAPPA:

Yes.

LEG. FISHER:

No.

LEG. GULDI:

Change my vote to a no.

LEG. FOLEY:

No.

LEG. LINDSAY:

No.

LEG. FIELDS:

No.

LEG. CARPENTER:

Yes.

LEG. CRECCA:

Yes.

LEG. NOWICK:

Yes.

LEG. BISHOP:

No.

LEG. BINDER:

Yes.

LEG. COOPER:

Nope.

LEG. POSTAL:

No.

P.O. TONNA:

Nope.

MR. BARTON:

Seven.

P.O. TONNA:

Parks, Sports & Cultural Affairs:

1397 - To establish Community and Youth Services Program at Sheep Pasture Road in Port Jefferson/Setauket, New York (Fisher). Motion by Legislator Fisher. This was discharged without recommendation.

LEG. FISHER:

Motion to table.

P.O. TONNA:

Motion to table, second by myself. All in favor? Opposed? Tabled.

LEG. FISHER:

We have the CEQ meeting tomorrow.

MR. BARTON:

17, one not present (Not Present: Legislator Towle).

P.O. TONNA:

1982 - Adopting Local Law No. 2002, a Local Law to strengthen enforcement penalties for All-Terrain Vehicles (ATV's) (Caracciolo). Motion by Legislator Caracciolo?

LEG. CARACCIOLO:

Yes.

P.O. TONNA:

Second by myself. All in favor? Opposed?

MR. BARTON:

17, one not present (Not Present: Legislator Towle).

P.O. TONNA:

Human Resources:

2053 - Authorizing certain technical corrections to Adopted Resolution No. 706-2002 (Towle). Motion by Legislator Towle, seconded by Legislator Foley. All in favor? Opposed?
Approved.

MR. BARTON:

Towle's not present.

P.O. TONNA:

Oh. Motion by Legislator Caracappa, seconded by Legislator Foley. All in favor? Opposed?
Approved.

MR. BARTON:

17, one not present (Not Present: Legislator Towle).

2056 - Approving payment to General Code Publishers for Administrative Code Pages (Presiding Officer Tonna). Motion by myself, seconded by Legislator Postal. All in favor? Opposed?

MR. BARTON:

17 one not present (Not Present: Legislator Towle).

P.O. TONNA:

2076 - Authorizing certain technical corrections to Adopted Resolution No. 524-2002 (Alden). Motion by Legislator Alden, seconded by myself. All in favor? Opposed?

MR. BARTON:

17, one not present (Not Present: Legislator Towle).

P.O. TONNA:

2094 - Amending the Suffolk County Classification and Salary Plan in connection with a new position title in the Police Department (Audio-Visual Production Manager) (County Executive). Motion by Legislator Carpenter, seconded by Legislator Postal. All in favor? Opposed?

MR. BARTON:

17 (Not Present: Legislator Towle).

P.O. TONNA:

Economic Development & Energy:

1977, 1977A - Amending the 2002 Capital Budget and Program and appropriating funds in connection with the renovation and construction of facilities at Francis S. Gabreski Airport - demolition (CP 5702) (County Executive). Motion by Legislator Cooper, seconded by Legislator Fisher. Roll call.

(*Roll Called by Mr. Barton, Clerk*)

LEG. COOPER:

Yes.

LEG. FISHER:

Yes.

LEG. CARACCIOLO:

Yes.

LEG. GULDI:

Yes.

LEG. TOWLE:

(Not present).

LEG. CARACAPPA:

Yes.

LEG. HALEY:

Yes.

LEG. FOLEY:

Yes.

LEG. LINDSAY:

Yes.

LEG. FIELDS:

Yes.

LEG. ALDEN:

Yes.

LEG. CARPENTER:

Yes.

LEG. CRECCA:

Yes.

LEG. NOWICK:

Yes.

LEG. BISHOP:

Yes.

LEG. BINDER:

Yes.

LEG. POSTAL:

Yes.

P.O. TONNA:

Yes.

MR. BARTON:

17, one not present on the bond (Not Present: Legislator Towle).

P.O. TONNA:

Same motion, same second, same vote.

LEG. ALDEN:

Mr. Presiding Officer?

P.O. TONNA:

Yes, Mister -- Legislator Alden.

LEG. ALDEN:

If you would indulge just for one second. 2094, I just have a question on that; is that a civilian position?

P.O. TONNA:

Is that a civilian position?

LEG. ALDEN:

Because there's a new position --

LEG. BISHOP:

It's my desk audit.

LEG. ALDEN:

Yeah, but a new position was created.

MR. SABATINO:

No, that was -- the individual showed up, I believe it was a Sergeant.

LEG. GULDI:

It's a desk audit reclassification.

LEG. CARPENTER:

It was a desk audit. Civil Service -- Ms. Chayes from Civil Service mentioned that it had been a desk audit and it should be --

[RETURN OF COURT STENOGRAPHER-LUCIA BRAATEN]

LEG. ALDEN:

So this won't be filled by uniformed personnel?

LEG. CARPENTER:

Somebody's already filling it.

MR. SABATINO:

No, it was uniformed personnel. It was a uniformed person who was desk audited and who appeared before the committee, so --

LEG. ALDEN:

So who's in this position, is it a uniformed personnel -- a uniformed personnel is now the

Audiovisual Production Manager?

LEG. BISHOP:

We had a different story in Public Safety.

MR. SABATINO:

I recall a uniformed person appearing before the committee, because that specific question was asked.

LEG. CARPENTER:

Which committee?

LEG. BISHOP:

Which committee?

MR. SABATINO:

It was Human Resources, I thought.

LEG. CARACCILO:

Legislator Alden, would you suffer an interruption?

D.P.O. CARACAPPA:

It was a desk audit.

LEG. ALDEN:

Yeah, go ahead.

LEG. CARACCILO:

I know your concern is about civilianizing positions in the Police Department. However, if this is a position that's presently filled by someone, a uniformed member and this is a desk audit, which it appears to have been, then what might be your purpose of taking a uniformed individual out of a civilian job, you know, and replacing with a civilian cannot be accomplished. It's basically giving someone a job title that a desk audit has determined that individual should serve in. Now, if your intent is to civilianize the job, then a resolution could be introduced to go into the Police Department budget line item by line item and identify positions that you want to civilianize.

LEG. ALDEN:

Wait a minute. But what you're saying, though, is that uniform --

LEG. CARACCILO:

I don't know that this is uniform also. Counsel represented it is. So, if it is, the action before us does nothing to either replace it with a civilian, it's just a job title change. And I know your goal is to probably put a civilian in this position, which you can only do by legislation.

LEG. ALDEN:

Well, all right. Let me just ask this question then. Is this an upgrade, then, as far as salary, or is this position --

LEG. CARACAPPA:

Based on I desk audit.

LEG. GULDI:

Based on a desk audit, there was a finding that this individual was performing --

LEG. CARPENTER:

Was performing out of title.

LEG. GULDI:

-- supervisory functions of other members of the unit and that, therefore, it should be elevated to a supervisory position. This creates the supervisory position, puts him in it, and eliminates the position he had been.

LEG. ALDEN:

All right. What was his --

LEG. GULDI:

And it is an upgrade.

LEG. ALDEN:

But what type of duties was this Audiovisual Production Manager doing, then?

LEG. BISHOP:

Doing the duties that the desk audit showed.

MR. SABATINO:

Yeah. The only question I recall a specific answer to, somebody, I think Legislator Guldi asked the question, "How many people are being supervised," and the response was that he, who sat in front of the committee, was supervising four individuals, meaning there were a total of five in the unit. That's my recollection of what took place. But I know the individual was present, because --

LEG. GULDI:

No, it wasn't actually the individual who was present, it was his Supervisor who was present.

MR. SABATINO:

Or his supervisor, but it was a uniformed personnel that gave the testimony in response to Legislator Guldi's question.

LEG. ALDEN:

What do they do? Is auto -- what is auto-visual production?

LEG. FIELDS:

Audiovisual.

LEG. ALDEN:

Yeah, it's audiovisual.

P.O. TONNA:

They watch voyeurs.

LEG. ALDEN:

What? Wait a minute. No, what do they do?

LEG. CARACCILOLO:

Counsel.

LEG. CARPENTER:

I do believe the County Exec's Office --

LEG. CARACCILOLO:

Would you suffer another interruption?

LEG. CARPENTER:

-- wants to comment on this. You want to bring them up?

LEG. CARACCILOLO:

Cameron?

LEG. ALDEN:

Go ahead, Mike.

LEG. CARACCILOLO:

Thank you. Counsel, I think the question is, if you look at the resolution, it would abolish an Audiovisual Production Specialist, which is a grade 25, and create a new position as manager at

a Grade 28. So the first question is, if there's a uniform member serving in the specialist capacity, is that person someone other than a Supervisor in the Police Department?

LEG. GULDI:

You know, I didn't ask that question in the committee.

LEG. CARACCILO:

I'm saying, if it's a Sergeant, as Counsel has represented --

LEG. GULDI:

No. He remembers the sergeant being present. The sergeant, which was --

LEG. CARACAPPA:

Lance has the answer.

LEG. CARPENTER:

Lance has the answer.

LEG. CARACCILO:

Lance, help us out.

LEG. CARPENTER:

The County Executive's rep has the answer. Please answer, so we can move on.

D.P.O. POSTAL:

Yeah. Can we hear from the Budget Review Office?

MR. REINHEIMER:

Okay. This is a civilian position. Okay? The bargaining unit, Collective Bargaining Unit 2, which is on the resolution, that's AME, it takes the position of an Audiovisual Production Manager and upgrades that position from an --

LEG. CARACCILO:

Specialist to a Manager.

MR. REINHEIMER:

From a Specialist, right, to a Manager.

LEG. CARACCILO:

It's a civilian, Cameron.

MR. REINHEIMER:

It's a civilian position, yes, it is. Okay.

LEG. ALDEN:

Audiovisual Production, what is that?

MR. REINHEIMER:

Okay. And Audiovisual Production Manager, we have a copy of the duty statements here, typical -- supervises the operation of video tape recorders, voice tape recorders, television cameras, film projectors, etcetera. Okay? It's a pretty extensive job description, which we have a copy here, and that was part of the resolution, it's part of the backup.

D.P.O. POSTAL:

Okay. Henry?

MR. BARTON:

Yes.

D.P.O. POSTAL:

Where are we on this? Do we have a -- I think we have a motion and a second.

LEG. CARPENTER:

2023 we're up to.

MR. BARTON:

2023.

D.P.O. POSTAL:

Yeah, but I think we have a motion and second on it?

MR. BARTON:

You could give it to me, since I didn't write it down.

D.P.O. POSTAL:

I think it was a motion by Legislator Carpenter, seconded by myself.

MR. BARTON:

Okay.

LEG. CARPENTER:

Sure.

D.P.O. POSTAL:

All in favor? Opposed?

MR. BARTON:

17, 1 not present. (Not Present: Leg. Towle)

P.O. TONNA:

18.

MR. BARTON:

You were present.

D.P.O. POSTAL:

2023 is approved. **2026 (Amending the 2002 Operating Budget, transferring funds from the fund balance and amending and appropriating funds in the 2002 Capital Budget for Downtown Revitalization Programs (CP 6412)).**

LEG. CARPENTER:

Motion.

P.O. TONNA:

Motion by Legislator Carpenter, second by Legislator Postal. All in favor? Opposed?

MR. BARTON:

17, 1 not present. (Not Present: Leg. Towle)

WAYS AND MEANS

P.O. TONNA:

2052 (Authorizing the sale of County-owned real estate pursuant to Section 215, New York State County Law to Ellen M. Novotny).

LEG. GULDI:

Motion.

P.O. TONNA:

Motion by Legislator --

LEG. HALEY:

Second.

P.O. TONNA:

-- Guldi, seconded by Legislator Caracappa. All in favor? Opposed?

MR. BARTON:

17, 1 not present. (Not Present: Leg. Towle)

P.O. TONNA:

2097 (Authorizing transfer of surplus computer equipment to project LINCT). Motion by --

LEG. GULDI:

Motion.

P.O. TONNA:

Legislator Guldi, seconded by Legislator Caracciolo. All in favor? Opposed?

MR. BARTON:

17, 1 not present. (Not Present: Leg. Towle)

P.O. TONNA:

2016 (Appointing Commissioner of the Suffolk County Board of Elections (Anita S. Katz)). Motion by Legislator Postal.

LEG. GULDI:

Second.

D.P.O. POSTAL:

Wait a minute. Wait, wait, wait. I wanted to ask our Counsel something.

P.O. TONNA:

Go ahead.

D.P.O. POSTAL:

Mr. Sabatino, can this resolution be approved before December?

MR. SABATINO:

It can, if the -- the only issue that was left outstanding was whether or not the individual who currently holds it is resigning before the end of the year. If he was --

D.P.O. POSTAL:

No.

MR. SABATINO:

If he's not resigning before the end of year, then you can vote on it now. There was some confusion at the time you filed it.

D.P.O. POSTAL:

Yeah.

MR. SABATINO:

It appeared that he was leaving early, and you can only do 30 days in advance. But if he's not leaving early, then it's okay to vote on it.

D.P.O. POSTAL:

No, he's not leaving early, so I'll make a motion to approve.

MR. SABATINO:

Okay.

LEG. GULDI:

Second.

P.O. TONNA:

Seconded by Legislator Guldi. All in favor? Opposed?

MR. BARTON:

17, 1 not present. (Not Present: Leg. Towle)

P.O. TONNA:

2117 (Reappointing Commissioner of the Suffolk County Board of Elections (Robert L. Garfinkle)). Motion by myself, seconded by Legislator Binder. All in favor? Opposed?

MR. BARTON:

17, 1 not present. (Not Present: Leg. Towle)

SENSE RESOLUTIONS

P.O. TONNA:

We have Sense Resolutions right now. Okay. Legislator -- **Sense 30 (Memorializing**

resolution requesting State of New York to authorize Drug and Alcohol Rehabilitation Program through Suffolk County dedicated fund). Motion by Legislator Fields, seconded by -- seconded by Legislator Foley.

LEG. ALDEN:

On the motion.

P.O. TONNA:

On the motion.

LEG. ALDEN:

Is this through a tax on --

LEG. FOLEY:

That's Legislator Fields.

LEG. FIELDS:

Yeah.

P.O. TONNA:

You're second.

LEG. ALDEN:

This is a beer tax?

LEG. FOLEY:

I'll second it.

LEG. FISHER:

Second.

P.O. TONNA:

No, he already did.

LEG. FOLEY:

Okay, I'll second.

LEG. FISHER:

Oh.

LEG. ALDEN:

Paul.

LEG. FOLEY:

Go ahead.

LEG. ALDEN:

Is this a beer tax?

MR. SABATINO:

Yes, this is the one that deals with --

P.O. TONNA:

Oh, put me down as a cosponsor.

MR. SABATINO:

Yeah, with the beer tax, with the proceeds to be dedicated to the --

LEG. FOLEY:

Substance Abuse --

MR. SABATINO:

-- Drug and Alcohol Rehabilitation Program.

LEG. FOLEY:

Right.

MR. SABATINO:

I think there was testimony yesterday on that initiative.

LEG. CARPENTER:

Henry, I'll cosponsor.

P.O. TONNA:

Could I ask you something, just to how it's --

LEG. BISHOP:

Did we know how much this would generate, though? That's the one thing I've been asking for.

P.O. TONNA:

I want to know how much it generates for the County.

LEG. BISHOP:

Lots.

P.O. TONNA:

Because we know it's going to be recurring.

LEG. BISHOP:

A ton of money.

P.O. TONNA:

All right. There's a motion and a second. All in favor? Opposed?

LEG. ALDEN:

Opposed.

P.O. TONNA:

Opposed, Legislator Alden. Legislator Binder, don't you want to oppose this?

LEG. BINDER:

I'm opposed. Sorry. I'm big time opposed to this.

P.O. TONNA:

Okay. Legislator Binder and Legislator Alden.

LEG. BINDER:

Could I put big time opposed?

MR. BARTON:

14-2, 1, 1. (Not Present: Leg. Towle)

LEG. BISHOP:

I would like to get some information, though. I think it would be helpful. It's just got approved.

P.O. TONNA:

Okay. All right. You got that, right? You had two -- I didn't hear the --

MR. BARTON:

14-2, 1 abstention, 1 not present.

P.O. TONNA:

Great. **Sense 63 (Memorializing resolution requesting Federal Food and Drug Administration (FDA) to ban sale of food supplements containing Ephedra).**

LEG. FISHER:

Table.

P.O. TONNA:

Motion by Legislator Fisher to table, second by myself. All in favor? Opposed? Tabled.

MR. BARTON:

17, 1 not present. (Not Present: Leg. Towle)

P.O. TONNA:

64 (Memorializing resolution requesting State of New York to raise legal smoking age to twenty-one). Motion by Legislator Fields, seconded by myself. All in favor? Opposed?

LEG. BISHOP:

Smoking age to 21?

LEG. FIELDS:

Twenty-one.

P.O. TONNA:

Yeah.

LEG. BISHOP:

No.

LEG. BINDER:

Abstain.

P.O. TONNA:

Okay, so say no.

LEG. BISHOP:

No.

LEG. BINDER:

Abstain.

P.O. TONNA:

Okay. Bishop's against it.

LEG. BISHOP:

They could go to war, but they can't have a cigarette.

LEG. ALDEN:
Henry, abstain.

LEG. BISHOP:
They could vote and go to war, but don't you have a cigarette.

LEG. CARPENTER:
Roll call.

LEG. ALDEN:
Roll call.

LEG. FOLEY:
You can't drink until you're 21 either, and, you know, the opponents to my bill were making the connection between drinking and smoking.

P.O. TONNA:
Ladies and Gentlemen, I would ask this. We're almost done. Okay?

LEG. CRECCA:
Are we on 64?

P.O. TONNA:
If you want to be recognized on the motion to say something, that's fine, but we're voting. It's either yes or no. There's been a motion and a second, motion by Legislator Fields, seconded by myself. All in favor? Opposed? Opposed, Legislator Bishop, Alden, Crecca.

LEG. CRECCA:
Abstain.

LEG. CARPENTER:
Abstain.

LEG. CARACCIOLO:
Abstain, Henry.

LEG. ALDEN:
Change mine to an abstention, also.

LEG. CRECCA:

Why don't you do --

LEG. CARPENTER:

Roll call.

P.O. TONNA:

Why don't we do a roll call?

LEG. CRECCA:

Why don't we do a roll call? What a great idea.

(Roll Called by Mr. Barton, Clerk).

LEG. FIELDS:

Yes.

P.O. TONNA:

Yes.

LEG. CARACCIOLO:

Abstain.

LEG. GULDI:

Abstain.

LEG. TOWLE:

(Not Present)

LEG. CARACAPPA:

Abstain.

LEG. FISHER:

Pass.

LEG. HALEY:

(Not Present)

LEG. FOLEY:

Yes.

LEG. LINDSAY:

Yes.

LEG. ALDEN:

Abstain.

LEG. CARPENTER:

Abstain.

LEG. CRECCA:

Abstain.

LEG. NOWICK:

Yes.

LEG. BISHOP:

Abstain.

LEG. COOPER:

Yes.

D.P.O. POSTAL:

Yes.

LEG. FISHER:

Abstain.

LEG. BINDER:

You got me down as abstention, Henry?

P.O. TONNA:

This is a weird vote. Okay.

MR. BARTON:

Seven. (Not Present: Leg. Towle and Haley)

P.O. TONNA:

I can't even figure this one out. Okay.

MR. BARTON:

Nine abstentions.

P.O. TONNA:

Sense 65 (Memorializing resolution requesting State of New York to implement statewide Amber Alert Program). Motion by Legislator Fields.

LEG. CRECCA:

On the motion.

P.O. TONNA:

Wait. Seconded by myself for the purposes of trying to find out what the Amber Alert Program is.

LEG. CRECCA:

Yes. The State did this already in September. I think you might look --

LEG. FIELDS:

But they didn't do it throughout the whole state. The Amber Alert goes form an area that they send out the Amber Alert, but if something were to happen in Schenectady, it would be nice to know that that person might be traveling down in this area, so the Amber Alert --

LEG. BISHOP:

But if somebody gets abducted in Erie County, we're going to get an alert?

LEG. FIELDS:

Well, it might -- we just went through this in -- Down South, where they went from place to place and out of -- from one county and one state to another.

P.O. TONNA:

When you have little kids, you're going to want that.

LEG. CRECCA:

It's a big state.

P.O. TONNA:

When you got little kids, yeah, you're going to want it.

LEG. FIELDS:

You know, then vote against it.

LEG. CRECCA:

I have little kids.

P.O. TONNA:

I know. No, I'm talking about Bishop. And I meant little, little, I didn't meant they would grow up little, I meant, you know, when they're small. Anyway --

LEG. CARPENTER:

Come on, call the vote.

P.O. TONNA:

Okay. Motion by Legislator Fields, seconded by myself. All in favor? Opposed?

MR. BARTON:

16, 2 not present.

P.O. TONNA:

There we go.

LEG. CRECCA:

Abstain.

P.O. TONNA:

All right. **66 (Memorializing resolution requesting State of New York to impose mandatory arbitration on HMO/hospital disputes)**. Motion by Legislator Lindsay, seconded by myself. Wait. Mandatory arbitration?

LEG. BISHOP:

You've got to abstain, Paul.

D.P.O. POSTAL:

You might have to abstain.

P.O. TONNA:

I'm going to abstain on this, just from the standpoint of a --

LEG. GULDI:

Point of information on this. Do health and hospital workers have a right to strike or are they stripped of that right?

LEG. LINDSAY:

No, they have a right to strike.

LEG. FIELDS:

Nurses strike in hospitals.

LEG. LINDSAY:

They have a right to strike.

P.O. TONNA:

I don't think --

LEG. LINDSAY:

This doesn't have to do with a labor dispute, it has to do with a dispute between the HMO's and the hospitals.

P.O. TONNA:

This is the Blue Cross --

LEG. BISHOP:

This is denial.

P.O. TONNA:

This is the Blue Cross hospital deal.

LEG. GULDI:

Okay, okay. I understand. I understand.

LEG. LINDSAY:

And the reason why I put this in is so that former Legislator Levy doesn't have to faint in order to get this resolved.

P.O. TONNA:

That's right. Sounds good.

LEG. GULDI:

Well, wait a minute.

P.O. TONNA:

And he is a constituent of yours.

LEG. BISHOP:

No, wait a minute.

P.O. TONNA:

All in favor? Opposed? I am abstaining.

LEG. ALDEN:

Abstain.

LEG. BINDER:

I'm opposed.

P.O. TONNA:

Opposed, Legislator Binder.

LEG. BISHOP:

One last -- oh, no.

P.O. TONNA:

Okay. We've got a little more. Okay. **67 (Memorializing resolution requesting New York State to convene emergency State session to avoid budgetary meltdown on Long Island).** Motion by Legislator Fields.

LEG. FISHER:

Second.

P.O. TONNA:

Second by Legislator --

MR. BARTON:

13. (Not Present: Legs. Towle and Haley).

P.O. TONNA:

-- Fisher. Okay. All in favor? Opposed?

LEG. BINDER:

Opposed.

P.O. TONNA:

You know what, I just -- I'm going to abstain. I just -- the word "meltdown", I've tried to --

LEG. BINDER:

I'm opposed. I don't think we should be telling them to put down -- they'll decide. I am opposed.

P.O. TONNA:

Roll call. Roll call.

MR. BARTON:

No, I got it?

P.O. TONNA:

You got it?

MR. BARTON:

Yeah.

P.O. TONNA:

Okay, great.

LEG. BISHOP:

I'm concerned they'll do it.

MR. BARTON:

It's 11.

P.O. TONNA:

Okay, great.

MR. BARTON:

One no, four abstentions, two not present. (Not Present: Legs. Towle and Haley)

P.O. TONNA:

Okay. **Home Rule Message 7 (Home Rule Message requesting New York State Legislature to amend Section 224(18) of the County Law to authorize Suffolk County to establish a Foreign Trade Sub-Zone in Nassau County).** That's a motion by --

LEG. CARACCILO:

Explanation.

P.O. TONNA:

We tabled this. Do you want to just table it?

D.P.O. POSTAL:

Yes.

P.O. TONNA:

Motion to table by Legislator Postal, second by Legislator Caracciolo. All in favor? Opposed?
Tabled.

MR. BARTON:

16, 2 not present. (Not Present: Legs. Towle and Haley)

LEG. CARACCILO:

Mr. Chairman. Are you doing CN's now, Mr. Chairman.

P.O. TONNA:

No.

LEG. GULDI:

Late-starters?

P.O. TONNA:

I'm going to do late-starters.

LEG. CARACCILO:

Do late-starters.

LEG. CARPENTER:

Before with we do that, Mr. Presiding Officer, I would just like to recognize a young man who has been here.

P.O. TONNA:

Yes, I would love for you to recognize this gentleman.

LEG. CARPENTER:

Came to committee this week. He's an intern. He is from West Islip, he's a senior at West Islip High School. Chris, if you would please stand, so you can be recognized.

P.O. TONNA:

Hey, Chris. How are you doing?

LEG. CARPENTER:

But I want to tell you, he's really very interested in government and I think --

D.P.O. CARACAPPA:

Still.

LEG. CARPENTER:

-- he's gotten an education at our committee this week.

LEG. CARPENTER:

No anymore? But he was here earlier. His grandfather came and picked him up and took him home and he came back himself, you know, so he was really quite interested.

P.O. TONNA:

This is a school night for you? Really?

LEG. CARACAPPA:

And I have to put on the record, too --

LEG. CARPENTER:

And -- yes. On the record, he's also --

LEG. CARACAPPA:

I'll do it just as a penance.

LEG. CARPENTER:

He's going to Lafayette High School -- to Lafayette College next September. He's a kicker with the West Islip High School Football Team and last Saturday --

D.P.O. CARACAPPA:

Who beat Centereach last weekend. Okay, are you happy?

LEG. CARPENTER:

Last Saturday --

D.P.O. CARACAPPA:

You happy?

P.O. TONNA:

Was it by a field goal.

D.P.O. CARACAPPA:

No, by many field goals.

LEG. CARPENTER:

By many.

P.O. TONNA:

That's great. Congratulations. Congratulations.

LEG. CARPENTER:

Thank you, everyone.

P.O. TONNA:

There you go. Okay. Now, let's go to the lay some things on the table here. We're going to waive the rules and lay on the table Number **2238 (Amending the 2002 Capital Program and Budget and appropriating start -- up funds in connection with the acquisition of properties for the County share for the reconstruction of C.R. 16, Portion/Horseblock Road, from the vicinity of Ronkonkoma Avenue to the vicinity of C.R. 97, Nicolls Road, Town of Brookhaven (CP 5511 Phase I).** It will be assigned to Ways and Means and Finance.

LEG. CARACAPPA:

What, 2238?

P.O. TONNA:

2238.

LEG. CARACAPPA:

Isn't that DPW? Are you crazy?

P.O. TONNA:

Yeah, why wouldn't this be DPW?

LEG. CRECCA:

What is it?

MR. SABATINO:

This is to acquire -- this is to acquire land.

LEG. BISHOP:

Ways and Means, it's Ways and Means.

LEG. GULDI:

This is to acquire land for the project, it's not the project.

LEG. CARACAPPA:

We should be secondary.

LEG. FOLEY:

We've got to be secondary, Public Works.

P.O. TONNA:

Okay. What I would do, put it in Ways and Means, secondary in --

LEG. FOLEY:

Public Works --

P.O. TONNA:

-- Public Works and Finance. Okay?

LEG. FIELDS:

Ways and Means?

LEG. FOLEY:

It always goes to Ways and Means.

P.O. TONNA:

Okay. **2239 (Authorizing public hearings pursuant to Article 2 of the Eminent Domain Procedure Law of the State of New York in connection with the acquisition of properties to be acquired for the reconstruction of C.R. 16, Portion Road, from the vicinity of Ronkonkoma Avenue to the vicinity of C.R. 97, Nicolls Road, Town of Brookhaven, Suffolk County, New York (CP 5511, Phase I), to waive the rules and lay on the table, and we'll do the same thing. It will go to Ways and Means, Public Works and Finance. And then 2240 (Amending the 2002 Capital Budget and Program and appropriating funds in connection with emergency dredging of Napeague Harbor).** This will go -- waive the rules, lay on the table. We'll send this to Public Works and to Finance.

LEG. CARACAPPA:

Send it to Ways and Means.

P.O. TONNA:

Okay? And so all in favor? Opposed? Right. We have two more? No. Now we have two CN's, CN --

LEG. CARACCILO:

2156 is being withdrawn.

P.O. TONNA:

Oh, you're withdrawing it?

LEG. CARACCILO:

By virtue of the action taken earlier today --

P.O. TONNA:

Great.

LEG. CARACCILO:

-- to sustain the veto.

P.O. TONNA:

Oh, okay. **2089.**

LEG. CARACCILO:

I want to thank Todd for the CN.

P.O. TONNA:

Okay. **2089.** There's a motion by Legislator Caracappa.

LEG. FOLEY:

Yeah, this is self-insurance. We need to have some explanation on this.

D.P.O. POSTAL:

Yeah, that was going to be my question.

LEG. GULDI:

Yeah. Actually, that was the reason it was tabled in committee. And there were people here to explain it earlier in the day.

P.O. TONNA:

Well, they should be here now.

MR. SABATINO:

The reason for the -- I'm sorry. The reason for the CN is that the bill had to be tabled in committee, because there were some technical deficiencies in the way it was constructed. But I'll defer to the Chairman. I think he wanted to say something.

P.O. TONNA:

Okay.

LEG. GULDI:

Basically, my primary concern was where is the money going in terms of the allocation of the 3 million dollars? Literally, this is all workers comp. I would advised that we will run out December 1. If we wait until December 5, we will be subject to 20% penalties for nonpayment of workers comp claims. The fund that we created and we embargoed for self-insurance is not fully exhausted, there will be more than a million-one left in it. It will probably close to fund balance and isn't anticipated to be needed through the year end. So this is within the projected costs of the committee, and the breakdown is into various workers comp funds.

P.O. TONNA:

As Chairman of Ways and Means, you're fine?

LEG. GULDI:

As Chairman, I no longer object to it being discharged and considered and -- in its amended form. My colleagues, Legislator Towle, I don't know if his questions were answered. Legislator Fields, were your questions satisfactorily?

LEG. FIELDS:

(Nodded yes)

P.O. TONNA:

Okay.

LEG. GULDI:

So I'll make a motion to approve the CN.

P.O. TONNA:

Well, by virtue of the fact that Legislator Towle is not here, I guess his questions were answered on a number of bills. So there's a motion to approve by Legislator Guldi, seconded by Legislator Fields. All in favor? Opposed? Okay. Thank you very much.

MR. BARTON:

16, 2 not present.

P.O. TONNA:

The people's business is done. We'll see you in Riverhead at our next meeting. And, by the way, just one final thank you to the Budget Review Office for the excellent work that you guys have done.

(Applause)

LEG. BISHOP:

Also, Paul, we got I think we got the levy out early this year, right?

MR. POLLERT:

We did.

LEG. BISHOP:

So the levy people, Mike Martin, is it?

P.O. TONNA:

Right, it was a heavy levy.

LEG. BISHOP:

He needs to be congratulated.

[THE MEETING WAS ADJOURNED AT 9:25 P.M.]

{ } Indicates Spelled Phonetically